

MARICOPA COUNTY PROCUREMENT CODE



ARTICLE 5 PROCEDURES MANUAL

ARTICLE 5 PROCUREMENT OFFICERS

Under the direction of Maricopa County Engineer, Michael S. Ellegood, P.E.

Community Development

Dan Marjanek, 240-2210 X 209

Environmental Services

Russell Luder, 602/506-6703

Facilities Management

Chuck Woosley, 602/506-5143
Heidi Birch (Capital Facilities Development),
602/372-3324

Flood Control District of Maricopa County

David Brozovsky, 602/506-4702
Barbara Hummell, 602/506-4876

Housing

(Under State of Arizona, June 2003)

Maricopa Integrated Health Systems

None

Recreation Services

Ken Mouw, 602/506-4739
Roxana Rojo, 602/506-8675

Sheriffs Office

Ian Thompson (limited to minor
modifications), 602/876-4701

Transportation

Barbara Hummell, 602/506-4876

Book Assignment

Name	Department
Marjanek, Dan	Community Development
Sanders, Sharon	Community Development
Luder, Russell	Environmental Services
Conner, Steve	Facilities Management
Foley, James	Facilities Management
Woosley, Chuck	Facilities Management
Birch, Heidi	Capital Facilities Development
Blaylock, Steve	Capital Facilities Development
Brozovsky, Dave	Flood Control District
Hummell, Barbara	Flood Control District
Maxwell, Wanett	Flood Control District
McGuire, Sharon	Flood Control District
Allen, Lynn	Maricopa Integrated Health Systems
Ellis, Stephen	Maricopa Integrated Health Systems
Mouw, Ken	Recreational Services
Rojo, Roxana	Recreational Services
Thompson, Ian	Sheriff's Department
Ellegood, Michael S.	Transportation
Funderburg, Johnnie	Transportation
Ortiz-Silva, Helen	Transportation
Proksa, Ken	Transportation
Slaughter, Cindy	Transportation
Bosworth, Kent	3D/I
Lemmon, Julie	Council for the Flood Control District
Revised 09/01/2004	

SUMMARY OF PAGE CHANGES

Original issue of Procedure Manual, September 1999

Change 1 November 1999
Chapter II.20 – Simplified Construction

Change 2 September 2000
Various sections revised due to the House Bill 2340 on alternative procurement methods (design build, construction manager @ risk, job order contracting)

Change 3 June 2002
Chapters I.7, I.8, I.10, VI.1, VIII.4, VIII.8, IX

Change 4 July 2002
Chapter IX

Change 5 June 2003
Various sections due to cleanup – See Page Index
Chapters I, II, III, IV, V, VI, VIII, IX

Change 6 September 2004
Various sections due to SB1066 (contractor tax) and SB1236 (time of completion, 45% of work done by prime, deletes \$10 mil ceiling for horizontal construction for DB & CM @ R, extended term date to 2010 for alt methods.)
– See Page Index
Chapters I, II, III, IV, V, VI, VIII, IX, X

NOTE: September 1, 2004 changes are noted in left margins of the changed pages.

DETAIL OF PAGE CHANGES (June 2003)

PAGE NUMBER	DESCRIPTION
I.1	Delete Chief Public Works Officer; change attention and copy to reference to Don Greene
I.6	Add additional register categories
I.8	Revise "On-Call Consultant Contracts" (need formal NTP per ea assignment, complete within contract period, and maximum time is 2 years – no extensions)
I.9	Revise "Certificates of Insurance"; Add "Insurance Company Rating" and "Insurance Limits" paragraphs
I.11	Add "Dispute Resolution" and "Tax Rate Changes" paragraphs
II.2	Revise "Register of Qualified Consultants" (explains electronic register, web site, and added sentence to refer to advertisement schedule in Section 2)
II.4	Revise "MWBE Participation" (standard statements throughout manual); Revise "Evaluation Criteria" (questions under each category of the evaluation form may be altered, deleted or add new questions to support the solicitation requirements)
II.5	Revise "Evaluation committee" (add paragraph after the 7 responsibilities); Revise "Shortlist Process"
II.6	Replace "department director" with "department head" (throughout manual)
II.12 and II.13	(II.12) Replace Dept. Director w/Dept Head; Revise MWBE Sec IX & App A explanation; (II.13) Revise "Evaluation Process" (add web site, how to use register, and whom to contact)
II.14	Raise "\$5,000" to "\$10,000"
II.17	Revise "Prebid Conference and Tour" (regarding mandatory prebid)
II.20	Adjust Paragraph Numbering (here and throughout manual)
III.2	Revise "Request for Qualifications" (delete PM assigning the point range); Revise MWBE reference to Section IX & App A
III.3 and III.4	(III.3) Revise "Evaluation Criteria" (Dept Proc Officer identifies evaluation criteria; use criteria in FORMS section as example; County Engineer must approve before advertising); (III.4) Revise "Evaluation Committee" (add paragraph after the 7 responsibilities)
IV.2	Revise "MWBE Participation" (standard statements throughout manual)
IV.3 and IV.4	(IV.3) Revise "Evaluation Criteria" (Dept Proc Officer identifies evaluation criteria; use criteria in FORMS section as example; County Engineer must approve before advertising);

	(IV.4) "Evaluation Committee" (add paragraph after the 7 responsibilities)
IV.5	Delete redundant paragraph about "Negotiations"; Replace dept director with dept head
V.3	Revise "MWBE Participation" (standard statements throughout manual); Revise "Request for Qualifications" (delete PM assigning the point range); and "Evaluation Criteria" (Dept Proc Officer identifies evaluation criteria; use criteria in FORMS section as example; County Engineer must approve before advertising);
V.4	Revise "Evaluation Committee" (add paragraph after the 7 responsibilities)
VI.1 and VI.2	(VI.1) Correct dept director with dept head, Correction to #3 – C.O. Approval; (VI.2) Revise "Change Order Reporting" (follow C.O. Report example and info is entered after final approval of change order); "Change Order Forms" (explains the use of the change order pages)
VI.3	Added Change Order Report Example
VIII.4	Revise "MWBE Assurances Affidavit" (deleted "County-certified" and replaced with "properly certified")
VIII.5	Spacing corrections to "LOI Evaluation Form"
VIII.7	Revised "Project Understanding" (deleted man-hour estimates request); Revise "MWBE Participation" (regarding affirmative action plan on file plus deleted "County-certified" and replaced with "properly certified")
VIII.9	Corrections to "Technical Proposal – Interview Evaluation" (added headings, interview information, and deleted Subtotal line)
VIII.13	Adjusted spacing on "On-Call Assignment Order" Form; replaced "PCN" with "Work Control No."
VIII.14	Moved "MWBE Assurances Affidavit" to Chapter IX
VIII.17-20	Added Selection Committee letter and Conflict of Interest Certification form and Dispute Resolution
IX.1	Inserted item # 7 under the Dept Proc Officers duties
IX.2	Added "Section B. Pre-Proposal Reception" information
IX.3	Added "Guidance for Calculating MWBE Participation"
IX.4	Added "Substitution of Subcontractors or Subconsultants"
IX.5	Updated Parity Partners Names
IX.6- 24	MWBE Forms corrections (added "MWBE Assurances Affidavit" from Section VIII.14; "DBE" reference changed to "Firms")

DETAIL OF PAGE CHANGES (September 2004)

PAGE NUMBER	DESCRIPTION
	Revised List of Procurement Officers, Change Index, Page Currency Index, and Page Index
I.1	Replaced the word "guidance" with "directive", edited explanation of "page changes", and updated contact names
II.3, III.2, IV.2, V.2	Clarified first advertisement is 30 days before LOI due date
II.15, IX.2, IX.3	Changed requirement of pre-bid meeting minutes and pre-bid conferences to "may"
II.22	Clarified how Limited Scope Construction Procurement is derived and distributed
III.1, IV.1, V.1	Clarified Board of Supervisor prior approval
III.1	Deleted horizontal threshold
III.3, III.4, IV.3, IV.4, V.3, V.4	Deleted use of minus points
III.10, IV.8, V.10	Deleted horizontal threshold and extended deadline to Year 2010
IV.3	Changed "consultant" to "contractor"
IV.5	Clarified the selection memo
IV.9	Clarified retention for Construction Manager at Risk
V.6	Deleted fixed price on Guaranteed Maximum Price for Job Order Contracting Technical Proposal
V.11	Clarified Job Order Contracting Bonds
VI.2	Clarification to digital change order form
VIII.3, VIII.4, VIII.5, VIII.7, VIII.8	Deleted Location of Work and Minus Points

VIII.10	Deleted Change Order Justification/Authorization Memorandum. Use Change Order format in Section 6
VI.2	Clarification to digital change order form
IV.3	Changed “consultant” to “contractor”
V.11	Clarified Job Order Contracting Bonds
VIII.16	Revised form for all County agencies to use
X.I	Deleted Past Performance Pilot Program explanation

**MARICOPA COUNTY
PROCUREMENT CODE
ARTICLE 5**

**“PROCUREMENT OF CONSTRUCTION
AND
RELATED ARCHITECT/ENGINEER
CONSULTANT SERVICES”**

**ARTICLE 5
ADOPTED BY THE BOARD OF SUPERVISORS
08/23/2000**

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DEFINITIONS

Extract from A.R.S. Title 34

(Note: If differences exist between the following definitions and the definitions that are currently listed in A.R.S. Title 34, the statutory definitions shall prevail.)

1. "Agent"
 - A. Means any county, city or town, or officer, board or commission thereof, and irrigation, power, electrical, drainage and flood control districts, tax levying public improvement districts, and county or city improvement districts.
 - B. Includes any county board of supervisors and any representative authorized by an agent to act as an agent for the purpose of authorizing necessary change orders to previously awarded contracts in accordance with guidelines established by rule of the agent, including the board of supervisors.
2. "Architect Services" means those professional architect services that are within the scope of architectural practice as provided in title 32, chapter 1.
3. "Construction":
 - A. means the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property.
 - B. does not include the routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or real property or demolition projects costing less than two hundred thousand dollars.
4. "Construction-manager-at-risk" means a project delivery method in which:
 - A. there is a separate contract for design services and a separate contract for construction services.
 - B. the contract for construction services may be entered into at the same time as the contract for design services or at a later time.
 - C. design and construction of the project may be in sequential phases or concurrent phases.
 - D. finance services, maintenance services, operations services, preconstruction services and other related services may be included.
5. "Construction services" means either of the following for construction-manager-at-risk, design-build and job-order-contracting project delivery methods:
 - A. construction, excluding services, through the construction-manager-at-risk or job-order contracting project delivery methods.
 - B. a combination of construction and, as elected by the agent, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services, as those services are authorized in the definitions of construction-manager-at-risk, design-build or job-order-contracting in this section.

6. "Contract" means all types of agent agreements, regardless of what they are called, for the procurement of services pursuant to this title."
7. "Contractor" means any person who has a contract with an agent.
8. "Design-bid-build" means a project delivery method in which:
 - A. there is a sequential award of two separate contracts.
 - B. the first contract is for design services.
 - C. the second contract is for construction.
 - D. design and construction of the project are in sequential phases.
 - E. finance services, maintenance services and operations services are not included.
9. "Design-build" means a project delivery method in which:
 - A. there is a single contract for design services and construction services.
 - B. design and construction of the project may be in sequential phases or concurrent phases.
 - C. finance services, maintenance services, operations services, preconstruction services and other related services may be included.
10. "Design requirements":
 - A. means at a minimum the agent's written description of the project or service to be procured, including:
 1. the required features, functions, characteristics, qualities and properties.
 2. the anticipated schedule, including start, duration and completion.
 3. the estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance.
 - B. may include:
 1. drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by an architect or engineer, as appropriate, who is registered pursuant to Section 32-121.
 2. additional design information or documents that the agent elects to include.
11. "Design services" means architect services, engineer services or landscape architect services.
12. "Direct selection" means the selection of a technical registrant without the requirement of advertising or the use of a current register.
13. "Engineer services" means those professional engineer services that are within the scope of engineering practice as provided in Title 32, Chapter 1.
14. "Finance services" means financing for a construction services project.
15. "Horizontal construction" means highways, roads, streets, bridges, canals, floodways, earthen dams and landfills.
16. "Job-order-contracting" means a project delivery method in which:
 - A. the contract is a requirements contract for indefinite quantities of construction.

- B. contract.
 - C. service, design services and other related services may be included.
17. "Landscape architect services" means those professional landscape architect services that are within the scope of landscape architectural practice as provided in Title 32, Chapter 1.
 18. "Maintenance services" means routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.
 19. "Materials":
 - A. means all property, including equipment, supplies, printing, insurance and leases of property.
does not include land, a permanent interest in land or real property or leasing space.
 20. "Operations services" means routine operation of existing facilities, structures, buildings or real property.
 21. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals.
 22. "Preconstruction services" means advice during the design phase.
 23. "Procurement":
 - A. means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, construction, or construction services
 - B. includes all functions that pertain to obtaining any material, services, construction, or construction services including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.
 24. "Public competition" means a competitive procurement process pursuant to Section 34-103, Subsection G that includes advertising in a public newspaper and a qualification-based selection process.
 25. "Services":
 - A. means the furnishing of labor, time or effort by a contractor or subcontractor that does not involve the delivery of a specific end product other than required reports and performance.
 - B. Does not include employment agreements or collective bargaining agreements.
 26. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as part of a contract with an agent.
 27. "Technical registrants" means a person who provides any of the professional services listed in Title 32, Chapter 1.

Chapter I

PROCUREMENT PLAN

The Maricopa County Procurement Plan summarizes the basic requirements for Article 5 Procurement pursuant to the Maricopa County Procurement Code. These basic requirements are implemented through procedures and documents. In addition, this plan sets forth the approach and methodology of Maricopa County Article 5 Procurement.

PROCEDURES MANUAL ADMINISTRATIVE PROCEDURES

The Procedure Manual provides detailed administrative and procedural directive for execution of Article 5 of the Maricopa County Procurement Code. The information contained within this manual is intended to be used as a guide; however, some sections are required to be implemented as stated. The mandatory directive will be indicated.

This manual contains a section entitled *Summary of Page Changes* to briefly identify the changes and dates of the distribution change. The *Detail of Page Changes* will clearly identify the detailed changes of the manual. Periodically changes to the manual will be issued to keep pace with modifications to existing directive. Individuals tasked to maintain the currency of this procedures manual would post the changes in accordance with the *Detail of Page Changes* notices. The most current version of both of these documents will be included within the manual for future reference.

Reference is made to the Article 5 Procurement Office in both Article 5 of the Procurement Code, and in this Procedures Manual. Any communication to this office should be addressed as follows:

Mail:	Michael S. Ellegood, P.E. County Engineer 2901 West Durango Street Phoenix, AZ 85009 Attention: Barbara C. Hummell
E-Mail:	Michael Ellegood - MCDOTX
Copy:	Barbara Hummell – FCDX
Internet:	mikeellegood@mail.maricopa.gov
Copy:	bch@mail.maricopa.gov

NOTE: DO NOT SEND CONFIDENTIAL MATTERS VIA E-MAIL/INTERNET

ARTICLE 5 PROCUREMENT OFFICER TRAINING AND INITIAL CERTIFICATION

An Article 5 Procurement Officer Training curriculum has been established to ensure that Article 5 Procurement Officers have a basic knowledge of procurement skills. All

non-certified Article 5 Procurement Officers are required to review and understand this information prior to being certified as an Article 5 Procurement Officer. Contact the Article 5 Procurement Office for additional information on this subject. Course outlines are available.

Article 5 Procurement Officers shall:

1. Procure and provide for Article 5 consultant and construction services in the manner which is most advantageous to Maricopa County, i.e., price, quality and other factors considered.
2. Provide well-defined and consistently applied procurement methods and procedures which fully comply with all applicable Federal and State laws, and Maricopa County Procurement Code requirements, but which allow the flexibility to satisfy unusual program requirements.
3. Give full support to encouraging minority and woman-owned business enterprises and to otherwise ensure full and free competition consistent with obtaining required services in support of realistic need dates.
4. Make contractual awards to Consultants and Contractors who will meet County requirements for quality, safety and schedule.

ANNUAL CERTIFICATION OF PROCUREMENT OFFICERS

Certification of Article 5 Procurement Officers is on a fiscal year basis. Each year, prior to the beginning of the fiscal year, the County Engineer will review applicable files/correspondence and re-issue, if appropriate, a new fiscal year Article 5 Procurement Officer certification.

PROCUREMENT CODE OF CONDUCT

For the purpose of a Code of Conduct, procurement personnel are encouraged to discuss with their immediate supervisors any problem arising out of compliance with this Code of Conduct.

Supervisors are expected to inform themselves about all facts bearing upon problems of personnel working under their supervision and to take prompt action to resolve a problem or refer it to higher authority for resolution.

Supervisors should be aware that actions such as frequent absences from work, tardiness, a sudden change in attitude toward one's work, alcoholism, and change in work habits may signal problems requiring prompt action by the supervisor.

Procurement personnel shall conduct themselves in such manner that establishes respect for Maricopa County. In all their activities, personal and official, they should always be mindful of the high standards of integrity expected of them.

Procurement personnel shall not:

1. Give or appear to give special favors, favored treatment or competitive advantage to anyone in the conduct of their duties.
2. Transact business as an employee of Maricopa County with any business entity in which the employee has a direct and/or substantial economic interest.

3. Represent Maricopa County in dealings with firms or individuals who are prospective employers.
4. Ask, accept, or receive a bribe.
5. Use for personal financial gain or make other improper use of information which may come to them through their position with the County.
6. Accept from Consultants or Contractors or potential Consultants or Contractors any gifts, gratuities, kickbacks, personal loans, advances, entertainment, favors, or other financial accommodations. Clearly marked advertising material of minimal value may be accepted.

The Anti-Kickback Act of 1986 requires that Consultants and Contractors be deterred from making payments and Maricopa County employees from accepting payments for the purpose of improperly obtaining or rewarding favorable treatment in connection with any awarded contract. It additionally prohibits a person from providing, attempting to provide, or offering to provide any kickback and from soliciting, accepting, or attempting to accept any kickbacks. When an employee has reasonable grounds to believe that a violation may have occurred, it shall be reported in writing to the County Engineer.

An employee engaged in any aspect of Article 5 procurement shall not support for approval any type of contract with a firm or individual if, at any time within a previous one-year period, such person was employed by, or was engaged in private business dealings with the firm or individual.

The County Engineer may make exceptions to this Procurement Code of Conduct policy where the application of the policy is impractical or does not serve the best interest of Maricopa County. The employee concerned will determine if a need exists to apply for an exemption in each case.

An employee who wishes to supplement income through other employment will discuss such employment with their Department Head. Outside employment is prohibited if:

1. It prevents an employee from getting the proper amount of rest or otherwise interferes with the present work.
2. It leaves an employee open to criticism of character or integrity.
3. It may cause a conflict of interest possibly giving special treatment or competitive advantage to a company doing business with Maricopa County.
4. The position held as a Maricopa County employee provides access to official information which could be used for the employee's advantage or for another's gain.
5. The outside employment or activity compromises the reputation of Maricopa County Article 5 Procurement.

Procurement personnel shall not knowingly do business with or assist any person or former employee who represents private interest and who appears to be using their present or former position to influence the impartiality of procurement personnel.

Article 5 procurement personnel will not intentionally or knowingly contract for or purchase any material, services, or construction pursuant to a scheme or artifice to avoid the requirements of the Maricopa County Procurement Code.

Any questions as to the propriety of dealing with such persons shall be referred to the County Engineer for determination and direction.

Procurement personnel shall not knowingly and willingly make false statements or representations in any Maricopa County files, papers or documents.

Supervisors shall immediately notify the County Engineer of any violations of this Code of Conduct.

Procurement personnel shall keep Department Heads informed and keep accurate records of all procurement related matters by this plan and these procedures.

Procurement personnel shall observe the limits of authority delegated to them.

Any Consultant or Contractor who encourages or in any manner aids, abets, assists or induces a procurement employee to violate either the spirit or the letter of this Code of Conduct shall be subject to immediate removal from the County's Register.

Violation of this Code of Conduct by any procurement employee is cause for dismissal and possible prosecution under applicable laws.

Maricopa County employees who act outside of their scope of contractual authority as defined herein may be personally liable for the recovery of all public monies paid plus 20% of such amount and legal interest from the date of payment and all costs and damages arising out of the violation.

STANDARDIZED CONTRACT LANGUAGE

Standardized contract language has been established for the procurement of consultants, attorneys, appraisers and for construction contracts. The purpose in developing standardized contracts is to ensure that the contracts cover all required statutory guidance, are professional in development and content, and present a common ground for contract work. The standardized contract language was reviewed by the principal using departments, by Risk Management, and by County Counsel. Therefore, the standardized contract language will not be changed or modified without prior coordination with the Article 5 Procurement Office. This is especially true about the indemnification and insurance language.

CONTRACT ADMINISTRATION

Each department authorized to conduct or administer Article 5 contracts will establish written internal contract administration procedures. These procedures will identify who, by position and title, is responsible for the various contract functions such as, but not limited to, coordination of work priorities, review and acceptance of contract deliverables, payment approval and retention monitoring, general correspondence, chairing and documenting contract meetings, change order authorization, accuracy and completeness of contract files and subcontractor notification, when required.

CONTRACT FILES

Contract files are public records and must be maintained in accordance with state statutes and procedures and the approved County Records Retention Plan. Each department will establish file procedures documenting file contents and maintenance. Article 5 Procurement Officers will review the individual contract file for completeness

prior to approving any procurement. Typical file content for several type procurements are listed in the SAMPLE FILE FOLDER PLANS section.

SOLICITATION REQUIREMENTS

Maricopa County shall provide identical information concerning a proposed acquisition to all prospective proposers or bidders. County personnel shall not provide an advantage of "advance knowledge" to any one prospective proposer or bidder.

With the exception of solicitations specifically identified as being for information or planning purposes, the County shall solicit bids, proposals or quotations only when there is a definite intention to award a contract. Solicitations shall not be used for information or planning purposes without being expressly identified as such.

Article 5 Procurement Officers shall give wide distribution to written information advising potential consultants and contractors about how to get on the County Register, who to contact within the County for information as to procurement requirements, and any other information to facilitate and encourage competition.

In addition to the debarment provisions set forth in Article 9 of the Procurement Code, no contract shall be entered into with a bidder or offeror if that bidder or offeror is a party to or an expert witness in litigation against Maricopa County or a County special district. This prohibition shall continue until the entire litigation has been dismissed with prejudice or all appeals have been taken and a final decision reached. This restriction also applies to major scope of work changes and also to new work on an on-call type contract.

If a bidder or offeror is a witness in litigation involving Maricopa County or a County special district, but is not designated as an expert witness, the bid or offer may be rejected upon the advice of counsel that it is not in the best interests of the County or County districts to enter into a contract with that bidder or offeror at that time.

MULTIPLE CONTRACTS FROM A SINGLE SOLICITATION

Multiple professional services contracts with technical registrants may be awarded from a single solicitation except for services provided under the design-build or construction-manager-at-risk project delivery methods. Multiple job-order-construction contracting services contracts may also be procured provided the process is accomplished in accordance with the procedure listed in Title 34, Chapter 6.

Solicitations for multiple contract awards will note the fact that multiple awards may or will be awarded.

REGISTERS

Professional Service Registers

Registers are approved lists of consultants who desire to perform specific categories of work for the County in accordance with this Code. In addition, these consultants have provided evidence of their professional qualifications to perform the tasks related to the category within which they desire to be considered.

The following categories of registers will be maintained by the County Engineer:

- Architect
- Engineers, by discipline
- Appraisers
- Geologists
- Archaeologists
- Landscape Architect
- Construction Cost Estimators
- Construction Managers
- Land Surveying

Other categories may be added at the discretion of the County Engineer.

The formal register file will be maintained at a location determined by the County Engineer. In addition, the registers may be listed on the County's Internet pages. Registers will be updated annually during the County's first fiscal quarter or whenever a consultant submits a change.

Construction Registers. Construction registers will be maintained if procurement under the Simplified Construction Procurement Program is anticipated. If maintained, these registers will be updated annually as above.

EVALUATION CRITERIA

Design-Bid-Build

The Evaluation Committee for design-bid-build procurement will use the standardized criteria listed in the SELECTION CRITERIA AND FORMS section.

The detailed evaluation criteria to be used to support required criteria may be tailored to each solicitation to include only those sub-factors that will have an impact on the evaluation and selection decision.

Design-Build, Construction-Manager-at-Risk, Job-Order-Contracting

Criteria to be used for design-build, construction-manager-at-risk and job-order-contracting require County Engineer approval on a case-by-case basis.

General Guidance

Once evaluation criteria have been identified and advertised for a solicitation they can be revised during the evaluation process only by a published addendum issued to all prospective offerors.

Qualifications of new firms, or firms not previously having County contracts, will be reviewed equally with those who may have prior County contract experience.

WITHDRAWAL OF A SHORTLISTED CONSULTANT

If a shortlisted individual or firm elects to withdraw from the selection process, the individual or firm may be replaced under the following conditions:

A. Replacement is in the best interests of the County.

- B. The next ranked firm from the original rank-ordered list is used.
- C. A memo documenting the substitution and the supporting rationale is prepared by the Procurement Officer, approved by the Department Director and placed in the contract file.

PROCUREMENT REVIEW

The senior certified Article 5 Procurement Officer, or that individual's designee, in each department will review and approve all department Article 5 procurement actions prior to approval by the Department Director or prior to submission to the Board for approval. If the department does not have an Article 5 Procurement Officer or if the procurement exceeds departmental authority, the procurement will be approved by the County Engineer.

ON-CALL CONSULTANT CONTRACTS

Assignment Sheet. All tasking of consultants who hold an "on-call" type contract will be accomplished via an assignment sheet rather than a formal notice to proceed. A suggested form is included in the FORMS section of this manual. While use of the suggested form is not mandatory, forms developed by departments must be used by the entire department. (No branch/section level forms.) Locally developed forms must include the following items: Scope of Work noted in sufficient detail to define and to allow successful completion of the task, Negotiated Fee based on contract fees, completion date, signature blocks indicating Procurement Officer approval, departmental budget approval, department "agent" approval and consultant acceptance of the task. An assignment is considered incomplete/non-binding without signatures in all the blocks.

Assignment Completion. Each assignment will be considered complete when the consultant submits a Certificate of Performance (COP) for the assignment, a request for final assignment payment, and the work is accepted by the County. The consultant may submit the COP for each assignment without the notary requirement. The contracts final COP must be notarized. All work assignments must be completed within the contract period.

Contract Maximums. The maximum contract amount for on-call consultant contracts is \$250,000.00. If an on-call contract involving a greater amount of fiscal authority is required, a request for this authority should be submitted to the County Engineer. The procedures of MCI-504 apply. The maximum duration of an on-call contract is two years.

On-Call Contract Retention. Due to the short duration of on-call assignments, retention will not normally be withheld. The decision of whether to use retention or not is delegated to the departmental Article 5 Procurement Officer. However, if an assignment will last for more than six months, retention is strongly suggested.

CERTIFICATES OF INSURANCE

Procurement officers are required to monitor the currency of contract Certificates of Insurance. While not required, it is good business practice to advise a consultant/contractor when their insurance is about to lapse. If this notification is accomplished, the notice should include a statement to the effect that if the insurance is not renewed, that failure constitutes a material breach of contract. If a notification is not given and the insurance lapses, immediate formal notification is required to protect the interests of the County. Original Certificates of Insurance should be maintained in the contract files. Initially, a faxed copy is acceptable but it should be followed up with an original copy.

Copies of the County's Certificate of Insurance for both consultants and contractors are part of the consultant and contractor boilerplate language.

INSURANCE COMPANY RATING

It is policy that only insurance firms with a B++ or better rating be accepted. Procurement Officers/staff may check insurance company ratings at www.ambest.com by searching with the insurance company name.

INSURANCE LIMITS

Insurance limits are included as part of the Consultant and Construction Contract Boilerplates. The limits have been coordinated with Risk Management. While these limits are the "standard," Procurement Officers are expected to exercise judgment especially when risk factors or contract values are typical. Procurement Officers must contact Risk Management and obtain their concurrence before changing any insurance limits.

CONTRACT CLOSEOUT

All Article 5 contracts will be formally closed out. The minimum steps required are:

1. Ensure the contract file includes original copies of all essential contracts and contract procurement information.
2. Ensure any encumbered contract money is released (use standard County financial form).
3. Ensure As-Built information is entered into the department formal record series.
4. Ensure the Certificate of Performance is signed and filed in contract file.

CONSULTANT AND PROJECT MANAGER PROCESS IMPROVEMENT

Forms and instructions about how to use this program are included Chapter X of this Manual. Use of this program is required. Except for a pilot past performance evaluation program being conducted by the Maricopa County Department of Transportation, information derived from this program will not be used in the County's consultant selection process.

AUDIT/REVIEW OF DEPARTMENT PROCUREMENT ACTIONS

Periodically, the County Engineer will direct a review and/or audit of procurement records to ensure that departments are meeting the requirements of the Procurement Code and of this Manual. The specific purpose and timing of the review will be noted in a memo from the County Engineer to the department director.

GRAY AREA COMMITTEE

The County Engineer and the Director of Materials Management have established through a formal charter an Article 3 and Article 5 Coordination Committee. The purpose of the committee is to resolve procurement issues that cannot be clearly defined as either an Article 3 or Article 5 procurement. The ultimate purpose is to provide guidance and authority to make procurements under the guidelines of the Procurement Code in the most efficient and effective manner and in the least amount of time.

The Gray Area Committee is a resource available to all departments. This Committee is especially valuable if a department is about to embark upon a new type of procurement or service. In that case, the department's procurement staff should contact either the County Article 5 Office or the Department of Materials Management and request that they review the proposed method of procurement. This coordination may result in a Gray Area Committee meeting. The important factor is that the most appropriate method of procurement is clearly identified. This prior coordination may result in a significant saving of time by preventing the intended procurement from being rejected/disapproved during the agenda process due to improper/inadequate process and/or coordination by the department.

ANNUAL REPORT

If any County department completes a design-build, construction-manager-at-risk or a job-order-construction contracting project, the County Engineer must submit a report to the Secretary of State on or before January 15th of each year about the benefits associated with the use of the procurement method. The report shall include the number of projects completed in the preceding calendar year using the procurement methods, the cost and description of each project and an estimate of any cost savings of other benefits realized through the use of that procurement method.

Departments completing projects using any of the three procurement methods stated in the paragraph above will submit the required information to the County Engineer not later than January 7th of each year.

DISPUTE RESOLUTION (MAG Specifications)

Sections 110 of the Maricopa Association of Governments Uniform Standard Specifications for Public Works Construction includes a paragraph on dispute resolution. The guidance state that "... the contractor shall use the contracting agency's certification form." A suggested form to meet that requirement is included in the Forms section of this manual.

TAX RATE CHANGES (REF. A.R.S. §42-5010H)

Any increase in the rate of tax imposed by Title 42, Chapter 5 (Transaction Privilege and Affiliated Excise Tax) and that is enacted by the Legislature or by a vote of the people does not apply with respect to contracts entered into by prime contractors or pursuant to written bids made by prime contractors on or before the effective date of the Legislature of the date of the election enacting the increase. To qualify for the exemption, the prime contractor must maintain the documentation prescribed by the Arizona Department of Revenue.

(This requirement will become effective 90 days after the termination date of the 46th Legislature, which ended on June 16, 2003.)

PRE-AWARD AUTHORITY

The purpose of this procedure is to provide guidance for obtaining Board approval to award a construction contract provided the lowest responsible bidder if the bid is not more than ten percent (10%) of the Project Manager's Engineer's Estimate. The Project Manager's Engineer's Estimate is a critical element of this process and is essential for fiscal control and proper discharge of the District's fiduciary responsibility.

The intent of this process is to reduce the amount of time between the decision to procure a contractor and the award of the contract. It is not an alternative for inadequate or incomplete planning, but a management alternative for specific not generalized use.

The Project Manager will establish the written Engineer's Estimate for the construction contract. The Engineer's Estimate is to be determined prior to the Bid Opening.

Once the Project Manager's Engineer's Estimate is determined, it will be forwarded to the Contracts Branch Manager in a sealed envelope. The Engineer's Estimate will include the District Contract Number. The sealed envelope will be date stamped by the Contracts Branch upon receipt.

The Engineer's Estimate is confidential. Only the Project Manager and the Division Manager will review the Engineer's Estimate prior to its being sealed.

The Project Manager's Engineer's Estimate must be delivered to the Contracts Branch Manager prior to the Bid Opening.

Once the Engineer's Estimate is provided to the Contracts Branch Manager, the Division Manager responsible for the procurement may change the Engineer's Estimate provided that clear documentation supporting the change is provided and the agenda has not been submitted.

After submission of an agenda item to the Board (approved by the Chief Engineer and General Manager and District Counsel), the Project Manager's Engineer's Estimate may not be changed. The Project Manager's Division Manager must ensure that the contract scope is not reduced to compensate for an incorrect estimate.

CHAPTER II

DESIGN, CONSTRUCTION AND DESIGN-BID-BUILD

This chapter outlines the procedures that have been most commonly used by the County since the creation of the Maricopa County Procurement Code. New construction in the County has normally occurred in two phases: design and then construction. The Arizona Revised Statute guidance on the design and construction of public buildings now uses a term called Design-Bid-Build. This term amounts to the County's standard design and construction practices. Only the term "Bid" has been added. The County has routinely referred to this action as part of the construction process.

SECTION 1

GENERAL INFORMATION

APPLICABILITY

This section outlines the process to be used in selection and fee negotiation for consultant services for all Maricopa County Governmental Units.

ARCHITECT, ASSAYER, ENGINEER, GEOLOGIST, LAND SURVEYOR AND LANDSCAPE ARCHITECT CONSULTANTS

Selection of consultants will be based on merit qualifications. Factors to be considered may include corporate experience, qualifications of staff personnel proposed for the project, references from previous work, specific approach to the project, capability of undertaking new work, ability to provide specified errors and omission (E&O) insurance, etc. The proposed fee cannot be a factor in selection. Preference will be given to consultants with the capability of performing the work within resident Maricopa County offices, unless federal funding mandates otherwise.

OTHER PROFESSIONAL CONSULTANTS/SERVICE

Selection of consultants or professional services required during the process of construction of County facilities and structures will be made in accordance with procedures contained in this Manual. Unlike A/E consultant contracts, these contracts may include price as a determining factor. However, hydrologists will be procured in the same manner as specified for engineers. Appraisers will be procured using the standardized evaluation criteria contained in the SELECTION CRITERIA AND FORMS section of this Manual.

REGISTER OF QUALIFIED CONSULTANTS

The County Engineer will maintain a register of consultants that have expressed an interest in performing work for the County and have provided evidence of their professional qualifications for such work. The register may be categorized to reflect the

consultant's primary field of expertise. The County Engineer will maintain an electronic register containing qualification information for each consultant desiring to be included in the register. The County Engineer will notify each consultant listed on the register annually of their status and invite updating of their professional qualifications.

The County Engineer will also maintain a Register of Contractors that has expressed an interest in performing work for the County under the Simplified Construction Procurement Program. The register may be categorized by type of work.

In addition to publication in the official newspaper of the County, a public advertisement may be placed in a major newspaper of general circulation in the Phoenix area inviting consultants or contractors to apply for inclusion on the County consultant or contractor register. (Follow the advertisement schedule as noted in Section 2 of this chapter.) Consultants or contractors that have failed to provide satisfactory evidence of qualification or have performed unsatisfactorily may be removed from the Register after written notification to the consultant or contractor in accordance with Article 9 of the Maricopa County Procurement Code.

The Electronic Register is located at:

http://www.mcdot.maricopa.gov/procurement/article5/RSIA5_apphome.asp

Article 5 Procurement Officers who are first time users of the Electronic Register should contact the Procurement office at the Maricopa County Department of Transportation.

SECTION 2

SELECTION AND AWARD OF CONSULTANT CONTRACTS EXCEEDING \$250,000.00

Generally, consultant contracts exceeding \$250,000.00 are required by both State Statute and the Maricopa County Procurement Code to be competitively advertised. There is one exception: Except for architect contracts, consultant contracts that do not exceed \$500,000 may use the under \$250,000 (register selection) procedure upon approval (written or electronic) of the County Engineer.

PUBLIC NOTICES

A public notice is issued soliciting interested parties for a contract to provide the professional services related to the construction, remodeling and/or reconstruction of public facilities and structures. The public notice identifies:

1. Nature or description of contract work
2. Contract number (determined by department procedure)
3. Due date and time
4. Physical location for receipt of responses
5. County contact name, address, and phone number - an e-mail address may be provided if desired
6. MWBE goals (see the "Maricopa County Minority and Woman-Owned Business Enterprise Chapter" in this Manual for direction in setting goals)

The public notice should be reviewed by the requesting party (usually the Project Manager) prior to publication to verify that the information accurately reflects their desired services, and meets their schedule requirements. The notice must be published in the County's recognized legal newspaper.

Two separate advertisements are required: one each week for two consecutive weeks. The first advertisement must be a minimum of 30 days prior to the Letter of Interest (LOI) due date. (NOTE: In exceptional cases, except for architect contracts, the County Engineer may waive the minimum advertisement time to 21 days.) The legal newspaper will send an official, notarized copy of the advertisement to verify the dates it was published. This verification will be included in the contract file.

Public notices should be included on the County's Public Works Procurement web page although this is not a legal requirement. Printed notices may also be mailed or faxed to firms listed on the County Register, or other interested parties as identified by the Procurement Officer. There is no limitation to where public notices can be advertised; professional magazines and trade journals or professional organizations are all appropriate. The Procurement Officer must use judgment, however, in determining the benefits of advertising costs above and beyond the required legal newspaper.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PARTICIPATION

It is Maricopa County's policy to endeavor to ensure that Minority and Woman-Owned Business Enterprises shall have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner. The County has instituted a MWBE Program in support of this policy. [See Chapter IX and Appendix A both titled Maricopa County Minority and Women-Owned Business Enterprise Program.]

LETTER OF INTEREST (LOI) INSTRUCTION PACKET

The Public Notice gives only basic information regarding the solicitation. Interested firms are instructed to contact the County to obtain information on the LOI format instructions. These instructions are based on standard County requirements with specific project requirements as identified by the Project Manager.

The instruction packet must include the evaluation criteria predefined by the County. These criteria are included as a form in the SELECTION CRITERIA AND FORMS section of this Manual.

The Project Manager has a range of points, which may be assigned to each criterion. The Procurement Officer assists the Project Manager in identifying the points for each criterion and approves the final points determination.

The Procurement Officer must assure that every LOI Instruction Packet issued is documented so all firms may be notified if an amendment is issued to the solicitation.

EVALUATION CRITERIA

The County Engineer is responsible for developing detailed evaluation criteria that shall be used in the evaluation and selection decision. This criterion is listed in the SELECTION CRITERIA AND FORMS section of this Manual. The specific questions under each major category may be altered, deleted or new questions added in order to support the individual requirements of each solicitation. However, major headings and their relative weighting shall be maintained.

By statute, fees, price, man-hours or any other cost information cannot be used in the selection process.

EVALUATION COMMITTEE

Each consulting contract has its own evaluation committee consisting of at least three persons. At least one of the committee members must be qualified in the discipline to be procured. A Procurement Officer is strongly recommended to be a member of the evaluation committee. If this is not practical or possible, the Procurement Officer will, at a minimum, act in an oversight capacity to verify that selections were properly conducted.

Prior to the evaluation process, the Procurement Officer will ensure the evaluation committee members understand their responsibilities during the evaluation. These responsibilities include:

1. Evaluation based on published criteria only
2. Avoidance of even the appearance of bias or conflict of interest
3. Preservation of integrity of evaluation process
4. No leading questions asked of firms during interviews
5. No correspondence or communication with firms without providing the same information to all of the firms
6. No preferential treatment
7. Same basic questions asked of all firms

A copy of a typical notification memo sent to the consultant evaluation team committee members is included in the SELECTION CRITERIA AND FORMS section. This form or a similar form should be sent to the evaluation team members to ensure they understand the selection process and timing. If the selection committee includes members from outside the department or staff that have professional outside employment those members should complete the Confidentiality and Conflict of Interest Certification Form. This form is included as the third page of the notification memo.

SHORTLIST PROCESS

Once LOIs are received by the Procurement Office, they are distributed to the evaluation committee members with a score/ranking form for each. The published criteria should also be included so each committee member is aware of the evaluation criteria.

Committee members independently review and evaluate each LOI. Committee members then meet to make a shortlist. During this meeting, the grades should be reviewed and compared. Significant deviations should be noted and discussed by the committee to ensure all appropriate information is considered by the committee. Final calculations are individually made and each member ranks the respondents, based on their final score.

The evaluation committee will rank order all the Respondents based on all of the independent scores. The top ranked Respondents shall be placed on a shortlist for further Procurement consideration. The number of short listed firms selected may vary depending upon the scope of work and the responses received. However, the total number of qualified short listed Respondents must include at least two more than the number of Contracts contemplated to be awarded.

Upon determination of the shortlist, the Committee Chairman will draft a memo to the department head identifying the short listed firms and asking for concurrence to proceed to the evaluation interviews. If the department head selection differs from that of the committee, written justification will be prepared and forwarded to the County Engineer for final approval.

INTERVIEWS

A scope of work and a sample of the standard contract language including the insurance and indemnification language and a copy of the Interview and Technical Proposal Evaluation Criteria will be sent to the firms short listed by the Evaluation Committee and approved by the department head. (The criteria are listed in the SELECTION CRITERIA AND FORMS section of this Manual.) The firms will be invited to participate in an evaluation interview and specific technical proposal information will be requested. This requested information may include their planned performance, professional qualifications and location of the specific staff proposed for the work, professional approach to the project, etc. There should be an appropriate amount of time allotted for the short listed Consultants to properly prepare their technical proposal and prepare for the interviews.

Interviews may be held at either the Consultant's office, or County offices, as desired by the Evaluation Committee. A pre-proposal meeting and/or tour may also be conducted prior to the proposal due dates if it is determined that it would be helpful for the Consultants.

The Evaluation Committee must be consistent in their approach to the separate interviews. The questions asked, time allotted, and agenda should be the same for each firm.

The Committee will check each Respondent's quality of performance through references and other outside inquiries as necessary. No discussion of proposed fees is permitted during the evaluation process.

FINAL SELECTION

Upon completion of the interviews the Evaluation Committee will meet and identify their selections. The Committee must be in agreement on their decision. Based on the Committee's findings, the Committee Chairman will draft a memorandum recommending to the department head a ranking list of firms in order of their desirability for each contract.

The final selection of the firm(s) with which to open negotiations will be made by the department head based on the recommendation and information provided by the Committee. If the department head's ranking differs from that of the committee, written justification will be prepared and forwarded to the County Engineer for final approval.

FEE NEGOTIATIONS

Before the selected Respondent is contacted for a priced fee proposal, the Project Manager must establish a formal cost estimate. The estimate should include separately identifiable line items, estimated hours to complete the project and other relevant cost information, as well as any specific milestones.

After the estimate is established, the selected firm will be requested to submit a priced fee proposal. The fee proposal is requested in a specific format, with specific requirements.

The County's intent is to negotiate a fair and equitable reimbursement for the Consultant's reasonable direct labor costs, payroll additives, overhead (including general and administrative expenses), sub consultants and other direct costs (ODC) while allowing them to make a reasonable profit. The County considers costs to be "reasonable" if, in its nature and amount it does not exceed that, which would be incurred by a prudent person in the conduct of competitive business. When determining profit, it should be remembered that risk is a factor of profit.

Labor related costs are actual salaries of the personnel directly charging time to the project, including applicable sick leave, vacation, and holiday pay, plus unemployment compensation insurance, retirement benefits, deferred compensation (or like plan qualified under the applicable section of the Internal Revenue Code), and medical and insurance benefits. The salaries of principals or partners to the extent that they perform only advisory services directly applicable to the project will be added to the salary cost without additions for employee benefits. Where the services of the principals or partners are necessary for the successful completion of the project, and this has been demonstrated to the satisfaction of the County, then the salaries of the principals or partners will be treated as directly chargeable to the project, inclusive of all employee benefits.

Multiplier

This provides the compensation for the Consultant's overhead, plus a margin for interest on invested capital, readiness and ability to serve, and profit.

The largest component of this multiplier is Overhead (indirect salary expenses), and is inclusive of the following unless otherwise accounted for in the audit of the firm's expenses:

1. The salaries of personnel in the executive and administrative salary pool other than those identifiable salaries included in salary cost, and expenses included and reimbursable and non-salary expenses, plus salaries or imputed salaries of partners and principals, to the extent that they perform general executive and administrative services.
2. Business taxes and insurance, other than those included in salary cost, but excluding state and federal income taxes.
3. Office space, including light, heat, cooling, and similar items.
4. Depreciation allowances or rental for furniture, drafting equipment, and engineering instruments.
5. Transportation expenses, including corporate automobile expense, and maintenance.
6. Office, printing, and drafting supplies.
7. Education and professional development (may include cost for consultant employee's attendance at technical conferences).
8. Communication expenses, including telephone, telegraph, and facsimile, with the exception of those long distance calls directly chargeable to a specific project.
9. Professional expenses, including fees for memberships in professional organizations.
10. Interest and finance.
11. Proposal preparation, preliminary arrangements for new projects, or like expenses.
12. Computer expenses, exclusive of salary cost of operation for specific projects, but inclusive of all other related computer operation expenses. If otherwise provided for in the cost allocation plan of a firm (such as direct project expense), the District reserves the right to review and approve such expense allocation and amount at the time of fee negotiation.
13. Graphic and engineering supplies.
14. Reproduction and photo expense, including use of copier for work not specified as a direct expense.
15. Postage, messenger, delivery and freight expenses other than those chargeable to a specific project.
16. Outside and temporary help.
17. Outside services – reproduction and printing, other than those costs directly chargeable to the project.
18. Equipment rental.

Direct Non-Salary Expenses

These expenses will be identified by Consultants on a project-by-project basis and may include, but not necessarily be limited to, the following:

1. Living and traveling expenses for principals and employees when away from the home office on business connected with the project, either actual expenses or a negotiated per diem rate.
2. Identifiable communication expense, such as long distance telephone calls, telegraph, and express mail charges incurred for the project.
3. Services directly applicable to the project, such as legal, accounting, special consultants (including subcontractors), borings, laboratory charges, commercial printing and binding, and similar costs that are not applicable nor have been included in general overhead.
4. This may also include "special" computer costs where the project requirements are such that a specific program purchase or additional computer equipment, such as rental, is necessary and identifiable. Any personnel time required in the application of specific programs will be charged as a salary cost. The County may request additional information regarding computer charges during the fee proposal and negotiation phases to ensure the cost effectiveness of the charges in relation to the project objectives and that the charges are not included in general overhead.
5. Reproduction and printing services directly related to the project and identified by a specific deliverable, such as reports, plans and specifications.

Unallowable Expenses

The following expenses are unallowable for inclusion in the Consultant's overhead (indirect salary) expenses:

1. Entertainment or advertising.
2. Time spent for participating in civic and charitable activities.
3. Bad debts, including interest, and charges for legal and collection fees.
4. Cost of life insurance policies where corporation is named as beneficiary.
5. Employee recreation and/or morale enhancement.
6. Property taxes on other than the property primarily occupied by the corporation.
7. Fines, penalties or other payments for violations of whatever kind or description.
8. Errors and omissions payments in settlement of claims or judgments.
9. Contributions and gifts.

Estimated Man-hours

Listings of the man-hours proposed to be directly spent on the project by non-overhead, project personnel involved in each major task/phase/additional service/post design category are to be included in the fee proposal. It may be helpful to the Department to have these totaled by tasks and personnel classifications. When a sub consultant is being employed for the work, the Consultant will include a separate task for sub consultant project management. No additional markup will be allowed on work performed by sub consultants.

Scheduled Project Man-hours

A tabulation of the Consultant's/Sub consultant's estimated direct project man-hours, by project personnel classification, on a month-by-month basis, may be required. This is helpful for the Department to project monthly expenditures, but the Consultant should not be contractually restrained to this projection.

Cost Proposal Summary

Under the "direct labor" classification, the labor classifications must match the personnel classifications contained in the Consultant/Sub consultant Estimated Man-hours. It is intended that all personnel/personnel categories (other than overhead-type personnel) who will be directly involved in the contract scope of work be included.

Estimated man-hours should be the same as the individual and total categories listed in the "Consultant/Sub consultant Estimated Man-hours" sheet.

The hourly rate shall reflect:

1. The actual hourly rates of identified key project personnel; and
2. The average hourly rates for all other personnel classifications at the office where the work will be performed.

All components (salary fringes, General & Administrative overhead and net fee percentage) of a consulting firm's overall multiplier will be subject to review and approval by the County during the contract negotiation stage. Unless specifically called out within the contract, the County will not entertain increases to any component of a Consultant's overall multiplier during the performance of a contract.

The County will negotiate the estimated expense categories for both Consultant and sub consultant. Backup documentation may be requested by the County.

Expense itemization, during the negotiation stage, must be compatible with the amount of direct expenses being proposed by the Consultant, and will vary with both the amount and type of the Consultant's contract assignment.

If an outside service does not involve the consultant's use of a professional services subconsultant, this type of consultant cost must be included within the direct expenses category.

All major professional subconsultant services being proposed by the Consultant must receive the same level of detail as the Consultant's fee proposal.

This fee proposal will be reviewed by the Negotiation Committee. The Negotiation Committee will develop a negotiation plan prior to fee negotiations. The negotiation plan must at a minimum include a targeted price for each of the line items, with a justification for any revisions. The plan should also include a targeted total price, the acceptable maximum total price, and a schedule for achieving conclusion of the negotiations.

If negotiations cannot be successfully completed because agreement cannot be reached on the standard contract language or on the fee proposal, negotiations with that firm will be terminated upon written approval of the Department Head. The firm will

be notified in writing that negotiations are terminated. Negotiations will then be opened with the next ranked firm, or the selection process will be repeated.

Upon successful completion of negotiations, the contract will be issued for signature by the Consultant and the Board. (See specific Department Procedures for development and processing of an Agenda Item for Board approval.)

AWARD

The contract is officially awarded upon execution by the Consultant and the Board. At time of award the Consultant should be reminded in his award letter that the schedule is of utmost importance. (See the Forbearance of Past Due Contracts for example of award letter.)

SECTION 3

SELECTION AND AWARD OF CONSULTANT CONTRACTS OF \$250,000.00 AND UNDER

A fully advertised competitive evaluation process may be used, but is not required, for contracts expected to be awarded for \$250,000.00 or less.

No public notification is required for consultant contracts of \$250,000 or less provided a current and applicable register exists and a consultant is selected from the register.

At the option of the Department Head of designated Article 5 Procurement Departments, any need for consultant services may be advertised in accordance with Section II of this manual.

If no register exists the Solicitation must be advertised in accordance with Section II of this manual.

The \$250,000 contract ceiling is inclusive of all change orders.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PARTICIPATION

It is Maricopa County's policy to endeavor to ensure that minority and woman-owned business enterprises shall have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner. The County has instituted a MWBE Program in support of this policy. [See Section IX and Appendix A both titled Maricopa County Minority and Women-Owned Business Enterprise Program,]

EVALUATION COMMITTEE

Each consulting contract has its own evaluation committee consisting of at least three persons appointed by the department head. At least one of the committee members must be qualified in the discipline to be procured. A Procurement Officer is strongly recommended to be a member of the evaluation committee. If this is not practical or

possible, the Procurement Officer will, at a minimum, act in an oversight capacity to verify that selections were properly conducted.

Prior to the evaluation process, the Procurement Officer should ensure the evaluation committee members understand their responsibilities during the evaluation. These responsibilities include:

1. Evaluation based on established criteria only (Refer to the SELECTION CRITERIA AND FORMS section of this Manual.)
2. Avoidance of even the appearance of bias or conflict of interest
3. Preservation of integrity of evaluation process
4. No correspondence or communication with firms without providing the same information to all of the firms
5. No preferential treatment

EVALUATION PROCESS

A list of firms capable of performing the required consultant scope of work is provided from the County Register. This can be obtained by logging onto the Electronic Register at: http://www.mcdot.maricopa.gov/procurement/article5/RSIA5_apphome.asp.

The Evaluation Committee must make their selection from the Register list. Detailed information can be provided for any of the firms on the list by selecting (clicking on) the appropriate category. If a register is not available for the specific specialty required, the formal (long) process must be used. For questions about the register, contact the Procurement Office at the Maricopa County Department of Transportation.

The evaluation committee will review a Respondents statement of qualifications and experience on file in the County register. Using the LOI criteria as a basis and based on the register information, the Evaluation Committee will rank the Respondents. The ranking order shall reflect the opinion of the Committee based on review of the register as well as appropriate checks of references and other outside inquiries. At least two more Respondents shall be selected than the anticipated number of contracts(s) to be awarded.

Based on the evaluation committee's findings, the chairman will draft a memorandum recommending to the department head a ranking list of all Respondents in order of their desirability for each Contract. The memo will include a brief summary of the selection criteria used.

The final selection of the Respondent or Respondents with which to open negotiations will be made by the department head based on the recommendation and information provided by the committee. If the department head's ranking differs from that of the Committee, written justification will be prepared and forwarded to the County Engineer for approval.

FEE PROPOSAL, NEGOTIATIONS, AND AWARD

The requirements for the fee proposal, the negotiation and award process are all the same as for advertised solicitations over \$250,000.00.

SECTION 4

SELECTION OF CONSULTANTS FOR CONTRACTS OF \$10,000 OR LESS

A selection committee of as small as a single person may be designated by the agency head to perform the same screening review as outlined in Section 3 to select and recommend a Respondent to the department head desirable for contract.

SECTION 5

SEALED COMPETITIVELY BID (CONSTRUCTION) CONTRACTS

GENERAL INFORMATION

A Procurement involving Construction which will not be procured in accordance with the limited scope or simplified Construction Procurement procedures shall be made in accordance with MC1-316 (Sealed Bids) and in conjunction with the following additional requirements:

An estimate of the cost of the proposed project will be prepared and provided by the Project Manager/Engineer/Architect. Prior to the bid opening, the estimate shall only be released to the Project Manager/Engineer/Architect or Procurement Officer. The estimate shall not be made public prior to Bid Award.

The estimate is to be made public after award and thereafter filed in the official procurement contract file.

The Procurement Officer must ensure that a review of design package's contractual documents is conducted prior to release of the bid package to verify that it is a biddable construction project and to ensure that bid items are broken down in a manner that enhances participation by the MWBE community.

A standard bid cycle of 3 to 4 weeks is the normal timeframe for new construction procurement actions. Reasons to support a shortened bid cycle can include:

1. programmatic needs,
2. year end funding restrictions,
3. little or no lower-tier involvement,
4. emergency situations, and
5. simplicity of project to develop bid.

The solicitation shall be issued to an effective number of prospective bidders to assure that Maricopa County will:

1. Obtain fair and reasonable prices.
2. Meet project need dates.
3. Be consistent with and meet the Maricopa County Procurement Code.
4. Improve opportunities for Minority and/or Women-Owned Business Enterprises.

A predetermined bidding range based on the estimate may be released for bidding purposes to provide general guidance as to the approximate size of the contract. The following bidding ranges will be utilized:

1. Between \$100,000 and \$500,000
2. Between \$500,000 and \$1,000,000
3. Between \$1,000,000 and \$3,000,000
4. Between \$3,000,000 and \$5,000,000
5. Greater than \$5,000,000.

PUBLIC NOTICE

A public notice is issued notifying contractors of the intention to receive bids and contract for the proposed work. The public notice identifies:

1. The nature of the work required, the type, purpose and location of the construction and where the plans, specifications and full information as to the proposed work may be obtained.
2. The fact that contractors desiring to submit bids may obtain full or partial sets of plans and specifications for estimate on request or by appointment.
3. That every bid must be accompanied by a certified check, cashier's check or surety bond for ten percent of the amount of the bid included in the submittal.
4. That the County reserves the right to reject any or all bids or to withhold award for any reason.

The public notice should be reviewed by the requesting party (usually the Project Manager) prior to publication to verify that the information accurately reflects construction requirements and the project schedule. The notice must be published in the County's recognized legal newspaper.

Two separate advertisements are required: one each week for two consecutive weeks. The legal newspaper will send an official, notarized copy of the advertisement to verify the dates it was published. This verification is included in the contract file.

While not required, public notices but should be included on the County's Public Works Procurement web page. Printed notices may also be mailed or faxed to firms listed on the County Register, or other interested parties as identified by the Procurement Officer. There is no limitation to where public notices can be advertised. The Procurement Officer must use judgment, however, in determining the benefits of advertising costs above and beyond the required legal newspaper.

In addition to the advertisement, at least one set of plans and specifications shall be provided to each construction news reporting service that has submitted an annual request to receive such information.

PRE-BID CONFERENCE AND TOUR

The primary objectives of a conference and tour should be to:

1. Eliminate contingency costs in proposals,
2. Preclude production/construction problems after award,

3. Give potential bidders a good understanding of what the contract requires,
4. Familiarize potential bidders with the surroundings/topography and geology of the project (i.e., access, egress), so as to mitigate potential differing site condition claims,
5. Identify any special labor requirements, and
6. Receive questions in general regarding the bid package.

The pre-bid conference and tour are not intended to be a substitute for inadequate specifications (i.e., taking field measurements for dimensions not shown or field verification for dimensions shown on the drawings). Minutes of the pre-bid meetings, including attendance, may be provided to all plan holders.

A mandatory pre-bid tour should be considered only when the work is of an unusual nature, complex access is difficult, or other conditions that make visual observation of the project essential.

While Pre-Bid conferences are not mandatory, any construction bids that include a mandatory pre-bid conference may include a pre-bid reception in accordance with the parameters established in Chapter IX, Maricopa County Minority and Woman-Owned Business Enterprise Program.

If a mandatory tour is required, consideration may be given to scheduling two separate pre-bid conference and tour dates to allow better response from the contracting community. This is not required, however. It must be clear in the bid package that attendance is mandatory for a responsive bid.

ADDENDA

When questions are received from plan holders in response to the solicitation, the Procurement Officer shall assure that all plan holders receive the same information. The clarification or change made as a result of the question(s) shall be transmitted to all plan holders by an addendum. The addendum shall include the requirements listed below:

1. Number of addendum and title of the solicitation.
2. Clarifications or changes should be made by reference to the document (i.e., reference Special Conditions Section 5(A), "Title", or Reference Drawing No. 163854, Zone B/3, "Subject").
3. Indicate if the bid opening is unchanged or if it has been postponed to a new date and/or time.
4. Remind the bidder to acknowledge receipt of the addendum on the bid, and attach it to the bid.

BID OPENING

In determining the date for bid openings, the Procurement Officer should consider any holidays or weekends, or other bid openings for other significant projects. Friday and Monday are generally not good bid opening days.

A Procurement Officer representative must be at the location of the bid opening not later than 15 minutes prior to the announced "opening" date and time. The Procurement Officer ensures each bid is brought to the location of the "opening" with time of receipt noted on the outer envelope.

The Procurement Officer should announce publicly at exactly what time (and by whose time-piece) the opening will occur.

The Procurement Officer shall start the proceedings of the bid opening by closing the door to the room. He should then welcome those in attendance and state that this is the bid opening for Invitation For Bids #_____ and title. The Procurement Officer should state that the opening and reading of these bids should not be interpreted by those in attendance that these bids are being accepted or rejected by the County.

Bids shall be received and opened only under these circumstances:

1. When bids are received prior to the close date.
2. When two or more bids are received.
3. When the bids, on the outside, are clearly marked as required by the solicitation.
4. When the Contractor attended a mandatory pre-bid conference and/or tour.

If a bid is received after the due date, or the Contractor did not attend a mandatory pre-bid conference, the Procurement Officer shall return the unopened bid to the submitting representative.

Upon opening the bids, the Procurement Officer shall announce the name of the firm that has submitted the proposal and then read the dollar amount offered. Upon reading all of the bids received, the Procurement Officer shall announce that the bid opening is closed and all bids shall be taken under advisement. No further public statement should now be necessary. Any reference to the low bid or bidder should be as the "apparent" low bid or bidder until all of the bid documents have been reviewed and verified as complete and responsive. Bids will not be reviewed in the presence of the bidders. Rather, the review will be conducted in a controlled environment in the presence of at least one witness immediately after the formal bid opening is concluded. At that time the Procurement Officer may waive minor informalities in a bid if it is advantageous to the County.

If only one bid is submitted, the Procurement Officer will advise the representative submitting the bid that the sealed envelope will be retained by the County and taken "under advisement." The bid may be either opened in the department head's office after polling the other non-bidders and their reasons for not submitting a bid, or returned to the bidder unopened.

If the bid is returned unopened, a letter shall accompany it explaining what is the fate of the proposed construction project (i.e., either an Addendum will be issued reopening the solicitation or the solicitation will be cancelled) and a statement of appreciation for submitting a bid.

The bid abstract shall be filled out by the Procurement Officer, or designee. The addendum issued should be included on the bid abstract. Particular care must be taken to record qualifications, restrictions and conditions made by the bidder.

Bids will be held confidential until the contract is awarded. Any inquiries made by non-department personnel will be directed to the Department Article 5 Procurement Officer.

MISTAKES IN BIDS

In addition to the guidance provided in Article 3 of the Procurement Code (MC1-323), the following guidance is provided.

1. A bidder may modify, withdraw, or withdraw and resubmit its bid at any time before bid opening if the modification or withdrawal is received before the time and date set for bid opening and in the location designated in the solicitation.
2. All documents concerning a modification or withdrawal of a bid will be retained in the procurement file.
3. After bid opening, a bid mistake based on an error in judgment may not be corrected. A bidder may be permitted to withdraw a bid without a penalty if a mistake is clearly evident on the face of the bid, but the intended correct bid is not similarly evident; or the bidder establishes by clear and convincing evidence that a mistake was made.
4. When a mistake in the bid or other irregularity is suspected, as in situations where the bid is extremely low in comparison with the other bids, the Department Article 5 Procurement Officer may contact the bidder and request written confirmation of the bid.
5. If a bidder alleges a mistake in the bid, the Article 5 Procurement Officer will require the offer or to submit within two hours the original estimating documents along with any other price development documents and information.
6. The supporting documentation will be reviewed by the Article 5 Procurement Officer in order to obtain clear and convincing evidence of the mistake and the intended bid. An alleged mistake must be documented as a mistake, that the mistake was made in good faith, and that the nature of the mistake is such that correction of the mistake is justified by considerations of fair dealing.
7. Obvious clerical errors in bids that are disclosed prior to award may be corrected, regardless of the amount, if the bidder has confirmed the correction. If the correction changes the low bidder's ranking, the second low responsive, responsible bidder shall be awarded the contract. Mistakes may not be corrected after the award of the contract.
8. Nothing contained in this procedure can be used to improve a non-responsive bid to become responsive.

RESPONSIBILITY CRITERIA

In addition to the guidance provided in Article 3 of the Maricopa County Procurement Code Responsibility of Respondents, the following guidance is offered. Contact with counsel is strongly recommended.

- A. The Article 5 Procurement Officer shall make a determination that a bidder or offeror is responsible before awarding a contract to that bidder or offeror.

- B. In addition to the criteria set forth in this article, Maricopa County may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation.
- C. Factors to be considered in determining a bidder or offeror to be not responsible include but are not limited to:
 - 1. Bidder has previously breached a contract with Maricopa County or a County special district, including unexcused failure to meet schedule milestones, failure to honor a defend clause.
 - 2. Bidder has failed to perform or has not performed in a satisfactory manner in accordance with the terms of one or more contracts with Maricopa County or County special districts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered (A.R.S. §41-2613.B.4.b).
 - 3. Bidder has failed to deal in good faith with Maricopa County or a County special district on previous contracts.
 - 4. Bidder unreasonably fails to promptly supply information in connection with an inquiry with respect to responsibility (A.R.S. §41-2540 and Arizona Administrative Code (R 7-2-1076).
 - 5. Bidder's financial, material, personnel or other resources, including subcontracts, are insufficient (R 7-2-1076).
 - 6. Bidder has record of unsatisfactory performance and integrity (R 7-2-1076).
 - 7. Bidder is not legally qualified to contract with Maricopa County (R 7-2-1076).
- D. A written determination of non-responsibility of a bidder or offeror shall be made by the Article 5 Procurement Officer and signed by the department head. A finding of non-responsibility shall not be construed as a violation of the rights of any person. Information furnished by a bidder or offeror shall not be disclosed to third parties without prior written consent by the bidder or offeror except to law enforcement agencies.
- E. If an apparent low bidder is determined to be "not responsible" notice of the determination shall be given to the apparent low bidder by certified mail return receipt requested. Within three (3) business days of receipt of the notice, the apparent low bidder may request an informal hearing from the Procurement Officer and department head, or, at his option, may request a hearing from an outside hearing officer. At that hearing the apparent low bidder may bring counsel, submit evidence, and at his own cost have a court recorder to record the proceedings. A decision shall be made in three days and the apparent low bidder will be advised of that decision by certified mail return receipt requested.

BONDING

Bid Bond

A bid security is statutorily required for all competitive sealed bidding for construction contracts. The bid security shall be a bond provided by a surety company authorized to do business in the State of Arizona. The equivalent security may be supplied as a certified or cashier's check in lieu of a bid security from a surety company.

The bid security shall be in an amount equal to at least 10% of the bid and shall be submitted with the bid. A bid received without proper bid security will be rejected.

An Article 5 Procurement Officer may determine that noncompliance is nonsubstantial if the bid security is inadequate as a result of correcting or modifying a bid and the bidder increases the amount of security to the required amount within two days after notification.

Performance and Payment Bonds

Performance and payment bonds are required for all construction contracts. They are required to be binding on the parties upon execution of the contract.

If the contractor fails to provide the required 100% performance and/or 100% payment bonds within the time specified by the contract, his bid shall be rejected, his bid security forfeited, and the contract will be awarded to the next low responsive, responsible bidder.

Performance bonds are to be submitted to the County, executed by a surety company authorized to do business in the State of Arizona, in the amount and for the duration specified in the contract.

Payment bonds are to be submitted to the County, executed by a surety company authorized to do business in the State of Arizona, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work required by the contract. The bond shall be in the amount specified in the contract.

INSURANCE

All insurance requirements, insurance coverage contract language and indemnification contract language will be coordinated with the County Risk Management office prior to sending the contract outside of the County for review, coordination and/or signature. Standard contract language, approved by Risk Management, is contained in the various contract boilerplate sections of this manual.

AWARD AND NOTICE TO PROCEED

All contracts will be awarded by the Board of Supervisors and signed by the Chairman of the Board unless that authority has been clearly delegated and authorized to others by the Board.

Upon receipt from the Contractor of the required bonds and insurance after award, a Notice to Proceed (NTP) will be issued which begins the performance period of the contract.

A summary tabulation of the bids may be issued by letter from the Department Procurement Office to all bidders after the contract award.

SECTION 6

SIMPLIFIED CONSTRUCTION PROCUREMENT PROCEDURES

NOTE: The fiscal limit of this procurement procedure is \$100,000 including any/all change orders.

NOTE: If the work involves modification, addition or alteration of any County-owned building, the coordination and approval of the Maricopa County Facilities Management Department will be obtained in writing prior to initiating this procurement process. In addition, a copy of the revised as-built plans will be sent to Facilities Management upon completion of the project.

- A. A register of contractors wishing to take part in the Simplified Construction Procurement Program will be maintained under the direction of the County Engineer by the Maricopa County Article 5 Procurement Office. The register will be updated annually as indicated in Section I of this Manual.
- B. Departments wishing to use this procurement method will assign a Department Project Manager for the project.
- C. The Department Project Manager will:

- 1. Prepare a Scope of Work and a set of specifications for the project/requirement.
- 2. Prepare a cost estimate for the work to be accomplished.
- 3. Prepare or ensure preparation of a bid package following the same guidelines as used for a sealed competitive bid contract (listed previously in this section).

NOTE: The standard construction contract boilerplate should be used to the maximum extent commensurate with the project being bid.

NOTE: If departments have a contracting branch/section, this branch will normally complete the bid package with the assistance of the Project Manager.

- D. The Department Article 5 Procurement Officer will:

- 1. Request a register list of contractors capable of completing the project from the Article 5 Procurement Office.
- 2. Submit the bid package to not less than three contractors listed on the register for the type of work being procured.

NOTE: If the register for the type of work being requested consists of more than three contractors, the names to which the bid package is submitted should be rotated from one project to the next. The purpose of this action is to provide opportunity to all firms on the register without unnecessarily complicating the procurement process.

- 3. Publicly open the bid at the time and location specified in the bid package.
- 4. Except for the register portion of the procurement, conduct the procurement using the same guidelines as established for the sealed competitive bid process.
- 5. Ensure bond requirements noted in the Code are met.
- 6. After publicly opening the bid, the department Article 5 Procurement Officer will review the bid package of the apparent low bidder completing all the actions that occur under a normal sealed competitively bid process except for the final

contract approval. After all documents are prepared, the contract will be forwarded to the Maricopa County Article 5 Procurement Office (located at MCDOT) through appropriate supervisory channels including Facilities Management if the contract addresses a County-owned building.

7. Upon receipt of the package, the Article 5 Procurement Office will review the package to ensure an Article 5 Certified Procurement Officer has approved the procurement, that the procurement meets the Simplified Construction Procurement parameters as specified in the Maricopa County Procurement Code and the Article 5 Procedures Manual, and that all required signatures are on the contract signature page. The Article 5 Procurement Office will then forward the package to the County Engineer for signature.
8. The County Engineer will sign the contract for Maricopa County as authorized by the Maricopa County Procurement Code and return the package to the Article 5 Procurement Office.
9. The Article 5 Procurement Office will return the package to the requesting department. The Article 5 Procurement Office will also enter the approval into a log of approvals under the Simplified Construction Procurement Procedure. A report of contracts approved under this procedure will be reported to the County Administrative Officer on a monthly basis.

SECTION 7

LIMITED SCOPE CONSTRUCTION PROCUREMENT

Arizona Revised Statute §34-201 authorizes agents to construct buildings and structures and to construct additions or make modifications to them within certain statutory monetary parameters. Specific procedures about how to perform this category of procurement are contained in Article 5 of the Maricopa County Procurement Code.

The annual limitations are updated by the Finance Services Branch of the Flood Control District of Maricopa County. This information is entitled "Expenditure Limit Calculator, GDP Implicit Price Deflator." The Article 5 Procurement Office distributes this information at the start of each fiscal year.

CHAPTER III

DESIGN-BUILD

DEFINITION

Design-Build is a project delivery method in which:

- A. There is a single contract for design and construction services.
- B. Design and construction may be in sequential phase or concurrent phases.
- C. Finance services, maintenance services, operations service, design services, pre-construction services and other related service may be included.

GENERAL

- A. Except for consultant services procured in accordance with Chapter 2, Section 2 of this Procedures Manual, design-build construction services will be procured in accordance with this appendix.
- B. The department shall request and obtain written approval of the County Engineer prior to initiating any procurement under this design-build concept. In addition, evaluation criteria used by any design-build selection committee shall be approved by the County Engineer. The criteria will be published as part of the solicitations.
- C. An agenda to authorize the advertisement and award the contract must be presented to the Board of Supervisors, prior to the advertisement.
- D. The department shall provide notice of each procurement and the County shall award contracts on the basis of demonstrated competence and qualification.

PROCEDURES

PUBLIC NOTICES

A public notice is issued soliciting interested parties for a contract to provide the services related to the construction, remodeling and/or reconstruction of public facilities and structures. The notice must comply with A.R.S. §28-6713, Subsection A. The public notice identifies:

- 1. Nature or description of contract work
- 2. Contract number (determined by Department procedure)
- 3. Due date and time
- 4. Physical location for receipt of responses
- 5. Number of firms to be short-listed
- 6. County contact name, address, and phone number - an e-mail address may be provided if desired
- 7. Minority and Women-Owned Business Enterprise Program (MWBE) goals (see the "Maricopa County Minority and Woman-Owned Business Enterprise Chapter" in this Manual for direction in setting goals)

The public notice should be reviewed by the requesting party (usually the Project Manager) prior to publication to verify that the information accurately reflects their desired services, and meets their schedule requirements. The notice must be published in the County's recognized legal newspaper.

Two separate advertisements are required: one each week for two consecutive weeks. The first advertisement must be a minimum of 30 days prior to the LOI due date. (NOTE: In exceptional cases, except for architect contracts, the County Engineer may waive the minimum advertisement time to 21 days.) The legal newspaper will send an official, notarized copy of the advertisement to verify the dates it was published. This verification will be included in the contract file.

Public notices should be included on the County's Public Works Procurement web page although this is not a legal requirement. Printed notices may also be mailed or faxed to firms listed on the County Register, or other interested parties as identified by the Procurement Officer. There is no limitation to where public notices can be advertised; professional magazines and trade journals or professional organizations are all appropriate. The Procurement Officer must use judgment, however, in determining the benefits of advertising costs above and beyond the required legal newspaper.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PARTICIPATION

It is Maricopa County's policy to endeavor to ensure that minority and woman-owned business enterprises shall have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner. The County has instituted a MWBE Program in support of this policy. [See Section IX and Appendix A both titled Maricopa County Minority and Women-Owned Business Enterprise Program.]

REQUEST FOR QUALIFICATIONS (RFQ) INSTRUCTION PACKET

The Public Notice gives only basic information regarding the solicitation. Interested firms are instructed to contact the County to obtain information on the RFQ format instructions. These instructions are based on standard County requirements with specific project requirements as identified by the Project Manager. The instruction packet must include the evaluation criteria approved by the County Engineer and restate the number of firms that are to be shortlisted.

The Request for Qualifications shall include the number of persons or firms to be included on the Shortlist. In a Request for Qualification for a horizontal construction project, at least three but not more than five persons or firms shall be on the Shortlist. In all other Requests for Qualification, three persons or firms shall be on the Shortlist.

The Procurement Officer must assure that every RFQ Instruction Packet issued is documented so all firms may be notified if an amendment is issued to the solicitation.

EVALUATION CRITERIA

The Department Procurement Officer is responsible for creating the detailed evaluation criteria that shall be used in the evaluation and selection decision. The consultant

selection criteria contained in the Forms Section should be used as a starting point in creating the criteria. It is not essential that the total points or the evaluation criteria add up to 100 points or any specific number. However, it is important to ensure that the most important criteria carry the most points relative to the point total. By statute, fees, price, man-hours or any other cost information cannot be included in the selection process. The County Engineer must approve the criteria before advertising or use.

EVALUATION COMMITTEE

Each design-build contract has its own evaluation committee. The department director shall determine the number and qualifications of the selection committee members within the following parameters. The selection committee shall not have more than seven members, except that, if the contract involves the County and additional governmental or private participants, the number of members of the selection committee shall be increased by one for each additional participant, except that the maximum number of members of the selection committee is nine. The selection committee shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or an engineer who is registered pursuant to A.R.S. §32-121. These members may be employees of the County or of outside consultants. Outside contractors, architects and engineers serving on a selection committee shall not receive compensation from the agent for performing this service, but the County may elect to reimburse outside contractors, architects and engineers for travel, lodging and other expenses incurred in connection with service on a selection committee. A person who is a member of a selection committee shall not be a contractor under the contract or provide construction, construction services, materials or services under the contract. A Procurement Officer is strongly recommended to be a member of the evaluation committee. If this is not practical or possible, the Procurement Officer will, at a minimum, act in an oversight capacity to verify that selections were properly conducted.

Prior to the evaluation process, the Procurement Officer should ensure the evaluation committee members understand their responsibilities during the evaluation. These responsibilities include:

1. Evaluation based on published criteria only
2. Avoidance of even the appearance of bias or conflict of interest
3. Preservation of integrity of evaluation process
4. No leading questions asked of firms during interviews
5. No correspondence or communication with firms without providing the same information to all of the firms
6. No preferential treatment
7. Same basic questions asked of all firms

A copy of a typical notification memo sent to evaluation team members is included in the SELECTION CRITERIA AND FORMS section. This form or a similar form should be sent to the evaluation team member to ensure they understand the selection process and timing. Selection committee members from outside the department or staff that have professional outside employment should complete the Confidentiality and

Conflict of Interest Certification form. This form is included as the third page of the notification memo.

SHORTLIST PROCESS

Once the RFQs are received by the Departmental Procurement Officer, they are distributed to the evaluation committee members with a score/ranking form for each. The published criteria should also be included so each committee member is aware of the evaluation criteria.

Committee members independently review and evaluate each RFQ response. Committee members then meet to make a shortlist. Final calculations are individually made and each member ranks the respondents, based on their final score. A meeting should be conducted to review and compare the grades. Significant deviations should be noted and discussed by the committee to ensure all appropriate information is considered by the Committee.

In identifying the Short List, the selection committee shall:

- A. Evaluate the statements of qualifications and performance data that are submitted in response to the Request for Qualifications for the proposed contract.
- B. If determined by the department director and included by the department in the Request for Qualifications, conduct discussions with at least the number of persons or firms to be included on the Short List as stated in the Request for Qualifications but not more than the number of persons or firms to be included on the Short List plus two as specified in the Request for Qualifications regarding the contract and the relative methods of approach for furnishing the required professional services or construction services.
- D. In order of preference, based on criteria approved by the County Engineer and published by the department and included in the Request for Qualification, select a Short List of persons or firms the selection committee deems to be the most qualified to provide the professional services or construction services. The number of persons or firms on the Short List shall be the number of persons or firms specified in the Request for Qualifications, except that if a smaller number of responsive and responsible persons or firms respond to the solicitation, the selection committee may proceed with the selection process with the remaining persons or firms if at least two persons or firms remain. The department may also re-advertise as the department director deems necessary or appropriate.
- E. Base the selection and order of preference on demonstrated competence and qualification only.
- F. Not request or consider fees, price, man-hours or any other cost information in the selection or order of preference.

Upon determination of the short list, the Committee Chairman will draft a memo to the Department Head identifying the short listed firms and asking for concurrence to proceed to the evaluation interviews.

If the department head selection differs from that of the committee, written justification will be prepared and forwarded to the County Engineer for final approval.

PROCUREMENT ALTERNATIVE A

(NOTE: After the Short List is created, two procurement avenues are available. Alternative A directly begins a negotiation phase ultimately ending in a signed contract. Alternative B, the County preferred alternative especially for large projects, requires the issuance of a request for technical proposals and ultimately a priced proposal.)

(NOTE: Refer to A.R.S. §34-607B4. This statutory section allows a price breakout by individual building, public work or other division of the contract. The breakout would allow completion of the individual work and release of the related retention.)

ALTERNATIVE A

The County shall award a contract to one of the persons or firms on the Short List.

NEGOTIATIONS

The department shall enter into negotiations for a contract with the highest qualified person or firm. The negotiations shall include consideration of compensation and other contract terms that the department determines to be fair and reasonable to the County. In making this decision, the negotiating team shall take into account the estimated value, the scope, the complexity and the nature of the services to be rendered. If the negotiating team is not able to negotiate a satisfactory contract with the person or firm considered to be the most qualified at a price the agent determines to be fair and reasonable, the department director shall formally terminate negotiations with person or firm. The department may undertake negotiations with the next most qualified person or firm in sequence until an agreement is reached or a determination is made to reject all persons or firms on the Short List. If a contract for construction services is entered into pursuant to this subsection, construction shall not commence until the County and contractor agree in writing on a fixed price or a guaranteed maximum price for the construction to be commenced.

ALTERNATIVE B – The preferred alternative

The Alternative B process uses the same process as Alternative A up through the finalization of the Short List. From that point, the following procedures apply.

REQUEST for TECHNICAL PROPOSALS

The department shall issue a Request for Technical Proposals to the persons or firms on the Short List. The Request for Technical Proposals shall include:

- A. The department's project schedule and project final design and construction budget or life cycle budget for a procurement that includes maintenance services or operations services.
- B. A statement that the contract will be awarded to the offeror whose proposal receives the highest number of points under a scoring method.
- C. A description of the scoring method, including a list of the factors in the scoring method and the number of points allocated to each factor.

- D. The design requirements.
- E. A requirement that each offeror submit separately a Technical Proposal and a Price Proposal and that the offeror's entire proposal be responsive to the requirements in the Request for Proposals. The price in the Price Proposal shall be a fixed price or a guaranteed maximum price.
- F. A statement that in applying the scoring method the selection committee will separately evaluate the Technical Proposal and the Price Proposal and will evaluate and score the Technical Proposal before opening the Price Proposal.
- G. If the department conducts discussions, a statement that discussions will be held and a requirement that each offeror submit a Preliminary Technical Proposal before the discussions are held.

LIMITED RESPONSES

- A. The number of persons or firms selected by the Evaluation Committee to be on the Short List shall be the number of persons or firms specified in the Request for Qualifications except that:
 - 1. If a smaller number of responsive and responsible persons or firms respond to the solicitation, the selection committee may proceed with the selection process with the remaining person or firms if at least two persons or firms remain. The department may also re-advertise as the department director deems necessary or appropriate.
 - 2. As to professional services selection only, if only one responsive and responsible person or firm responds to the solicitation, the department may proceed with the one person or firm on the Short List and the County may award the contract to a single person or firm if the department determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons or firms had reasonable opportunity to respond or there is not adequate time for a re-solicitation.
- B. The agent shall award the contract to one of the persons or firms on the Shortlist except that if fewer than the number of persons stated in Alternative B but at least two submit a responsive proposal or if one of the shortlisted firms listed in either Alternative A or B drop out of the selection process, then
 - 1. If there are three or more remaining persons or firms, the department shall proceed with the selection process.
 - 2. If there are only two remaining persons or firms, as the department director deems necessary and appropriate, the department director may elect to proceed with the selection process with the two persons or firms or may elect to terminate the selection process and may elect to re-advertise.
 - 3. If there is only one remaining person or firm, the department shall terminate the selection process and may elect to re-advertise, except as to professional services only, the agent may award the contract to a single person or firm if the department determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons or firms had reasonable opportunity to respond or there is not adequate time for a re-solicitation.

EVALUATION CRITERIA

The department shall develop and the County Engineer shall approve the evaluation criteria to be used in the selection process. As a minimum, the criteria shall include:

1. Compliance with the design requirements.
2. Offeror qualifications.
3. Offeror financial capacity.
4. Compliance with the department's project schedule.
5. If the Request for Proposals specifies that the department will spend its project budget and not more than its project budget and is seeking the best proposal for the project budget, compliance of the offeror's price or life cycle price for procurements that include maintenance services, operations services or finance services with the department's budget as prescribed in the Request for Proposals.
6. If the request for proposals does not contain the specifications prescribed in item 5), the price or life cycle price for procurements that include maintenance services, operations services or finance services.
7. An offeror quality management plan.

INTERVIEWS

If the department director determines to conduct discussion, each offeror shall submit a Preliminary Technical Proposal to the department before those discussions are held.

If determined by the department and included by the department in the Request for Proposals, the selection committee shall conduct discussions with all persons or firms that submit preliminary Technical Proposal. Discussions shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and for clarification by the owner. Revision of Preliminary Technical Proposals shall be permitted after submission of Preliminary Technical Proposal and before award for the purpose of obtaining Best and Final Proposals. In conducting any discussions, information derived from proposals submitted by competing offerors shall not be disclosed to other competing offerors.

After completion of any discussion or if no discussion are held, each offeror shall submit separately the offeror's Final Technical Proposal and its Price Proposal.

FINAL SELECTION

Before opening any Price Proposal, the selection committee shall open the Final Technical Proposals, evaluate the Final Technical Proposals and score the Final Technical Proposals using the scoring method in the Request for Proposals. No other factors or criteria may be used in the evaluation and scoring.

After completion of the evaluation and scoring of all Final Technical Proposals, the selection committee shall open the Price Proposals, evaluate the Price Proposals, score the Price Proposals and complete the scoring of the entire proposals using the scoring method in the Request for Proposals. No other factors or criteria may be used in the evaluation and scoring.

AWARD

The County shall award the contract to the responsive and responsible offeror whose proposal receives the highest score under the method of scoring in the request for proposals. No other factors or criteria may be used in the evaluation.

The contract file shall contain the basis on which the award is made.

PAYMENT OF STIPULATED FEE and USE OF SUBMITTED IDEAS/INFORMATION

The County shall award a stipulated fee equal to a percentage of the department's project final design and construction budget, as prescribed in the Request for Proposals, but not less than two-tenths of one per cent of the project final design and construction budget to each Short List offeror who provides a responsive, but unsuccessful proposal. If the County does not award a contract, all responsive Short List offerors shall receive the stipulated fee based on the estimate of the project final design and construction budget as included in the Request for Proposals. The County shall pay the stipulated fee to each offeror within ninety days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the County may use any ideas of information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful offerors. Notwithstanding the other provisions of the paragraph, an unsuccessful Short List offeror may elect to waive the stipulated fee. If an unsuccessful offeror elects to waive the stipulated fee, the County may not use ideas and information contained in the offeror's proposal, except that this restriction does not prevent the County from using any idea or information if the idea or information is also included in a proposal of an offeror that accepts the stipulated fee.

GENERAL CONSIDERATIONS

Until award and execution of a contract by the County, only the name of each person or firm on the Short List shall be available to the public. All other information received by the County in response to the Request for Qualification or contained in the proposals shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing offerors during the selection process. The proposals shall be open to public inspection after the contract is awarded and the County has executed the contract. To the extent that the offeror designates and the department concurs, trade secrets and other proprietary data contained in a proposal remain confidential.

A department may cancel a Request for Qualifications or a Request for Proposals or reject in whole or in part any or all proposals as specified in the solicitation if it is in the best interest of the County. The department shall make the reasons for cancellation or rejection part of the contract file.

Notwithstanding any other law:

1. The contractor for construction services is not required to be registered to perform design services pursuant to Title 32, Chapter 1 if the person or firm actually

performing the design services on behalf of the contractor is appropriately registered.

2. The contractor for construction services is not required to be licensed to perform construction pursuant to Title 32, Chapter 10 if the firm actually performing the construction on behalf of the contractor is appropriately licensed.

Notwithstanding anything to the contrary in this appendix or in A.R.S. Title 34:

1. The estimated cost of the project shall not include the cost to procure any right-of-way or other cost of condemnation.
2. No procurement of any horizontal construction using the design-build method of project delivery is authorized after June 30, 2010. For purposes of this paragraph, procurement for horizontal construction occurs when the contract for the construction services is executed by the County and the contractor for the design-build construction services. If a contract is executed for construction services on or before June 30, 2010, construction services under the contract may be rendered in whole or in part after June 30, 2010.
3. For the purposes of this paragraph, "Specific, single project" means a project that is constructed at a single location, at a common location or for a common purpose.

Notwithstanding anything to the contrary in this appendix or in A.R.S. Title 34, the County shall not:

1. Enter into a contract as contractor to provide design-build construction services.
2. Contract with itself, with another agent, with this state or with any other government unit of this state or the federal government for the agent to provide design-build construction services.

The prohibitions prescribed in the above paragraph of this section do not prohibit the County from providing construction for itself as provided by law.

For the purposes of this chapter, "Professional Services" includes architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services.

EMERGENCY PROCEDURES

Notwithstanding any other provisions of A.R.S. Title 34, Sections MC1-346 and MC1-347 of this Code, the County Administrative Officer may make or authorize others to make emergency procurements of architect services, construction-manager-at-risk construction services, design-bid-build construction services, design-build construction services, engineer services job-order-contracting construction services, landscape architect services, assayer services, geologist services or land surveying services if a threat to the public health, welfare or safety exists or if a situation exists that makes compliance with Title 34 impracticable, unnecessary or contrary to the public interest, except that these emergency procurements shall be made with such competition as is practicable under the circumstances. In addition to the requirements stated in MC1-346 and MC1-347 of this Code, a written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

DESIGN-BUILD BID SECURITY

- A. Bid security is required for all design-build construction services awarded by competitive sealed proposals pursuant to A.R.S. §34-603, Subsection F if the department estimates that the budget for construction, excluding the cost of any finance services, maintenance services, operations services, design services, pre-construction services or other related services will be more than the amount prescribed in A.R.S. §41-2535, Subsection B. Each proposal for design-build construction services shall be accompanied by a certified check, cashier's check or surety bond in an amount equal to ten per cent of the agent's budget for construction, excluding any finance services, maintenance services, operations services, design services, pre-construction services or other related services, for the project as stated in the Request for Proposals.
- B. The following additional guidance applies:
 - 1. If the Request for Proposals requires security, noncompliance requires that the department reject the proposal for noncompliance with the security requirement, unless the department determines that the bid fails to comply in a non-substantial manner with the security requirement.
 - 2. After the department opens the proposals, the proposals are irrevocable for the period specified in the Request for Proposals, except as provided in Section 34-603, Subsection F. If a proposer is permitted to withdraw its proposal before award, no action may be had against the proposer or the bid security.

MISCELLANEOUS

Information on the following topics is contained in A.R.S. Title 34, Chapter 6:

CONTRACT,
PAYMENT TO CONTRACTOR,
SECURITY,
RECOVERY OF DAMAGES BY CONTRACTOR FOR DELAY,
PROGRESS PAYMENTS

CHAPTER IV

CONSTRUCTION-MANAGER-AT-RISK

DEFINITION

Construction-manager-at-risk is a project delivery method in which:

- A. There is a separate contract for design services and for construction services.
- B. The contract for construction services may be entered into at the same time as the contract for design services or at a later time.
- C. Design and construction may be in sequential phase or concurrent phases.
- D. Finance services, maintenance services, operations service, design services, pre-construction services and other related service may be included.

GENERAL

- A. The department shall request and obtain written approval of the County Engineer prior to initiating any procurement under this construction-manager-at-risk concept. In addition, evaluation criteria used by any construction-manager-at-risk selection committees shall be approved by the County Engineer. The criteria will be published as part of the solicitations.
- B. An agenda to authorize the advertisement and award the contract must be presented to the Board of Supervisors, prior to the advertisement.
- C. The department shall provide notice of each procurement and the County shall award both contracts on the basis of demonstrated competence and qualification.

PROCEDURES

The procurement of the design contract for this procurement process shall be in accordance with this Chapter unless the contract is with an engineer and the contract value is less than \$500,000 or with an architect and the value of the contract is less than \$250,000. If the contract is less than the values just stated the professional services will be procured in accordance with Chapter II, Section 2 or 3 of this Manual. The construction-manager-at risk contract shall be procured in accordance with the following procedures.

PUBLIC NOTICES

A public notice is issued soliciting interested parties for a contract to provide the services related to the construction, remodeling and/or reconstruction of public facilities and structures. The notice must comply with A.R.S. §28-6713, Subsection A. The public notice identifies:

1. Nature or description of contract work
2. Contract number (determined by Department procedure)
3. Due date and time

4. Physical location for receipt of responses
5. Number of firms to be short-listed
6. County contact name, address, and phone number - an e-mail address may be provided if desired
7. Minority and Women-Owned Business Enterprise Program (MWBE) goals (see "MWBE PROGRAM" from this Manual for direction in setting goals)

The public notice should be reviewed by the requesting party (usually the Project Manager) prior to publication to verify that the information accurately reflects their desired services, and meets their schedule requirements. The notice must be published in the County's recognized legal newspaper.

Two separate advertisements are required: one each week for two consecutive weeks. The first advertisement must be a minimum of 30 days prior to the LOI due date. (NOTE: In exceptional cases, except for architect contracts, the County Engineer may waive the minimum advertisement time to 21 days.) The legal newspaper will send an official, notarized copy of the advertisement to verify the dates it was published. This verification will be included in the contract file.

Public notices should be included on the County's Public Works Procurement web page although this is not a legal requirement. Printed notices may also be mailed or faxed to firms listed on the County Register, or other interested parties as identified by the Procurement Officer. There is no limitation to where public notices can be advertised; professional magazines and trade journals or professional organizations are all appropriate. The Procurement Officer must use judgment, however, in determining the benefits of advertising costs above and beyond the required legal newspaper.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PARTICIPATION

It is Maricopa County's policy to endeavor to ensure that minority and woman-owned business enterprises shall have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner. The County has instituted a MWBE Program in support of this policy. [See Chapter IX and Appendix A both titled Maricopa County Minority and Women-Owned Business Enterprise Program.]

REQUEST FOR QUALIFICATIONS INSTRUCTION PACKET

The Public Notice gives only basic information regarding the solicitation. Interested firms are instructed to contact the County to obtain information on the RFQ format instructions. The instruction packet must include the evaluation criteria approved by the County Engineer and restate the number of firms that are to be short-listed. In a Request for Qualification for a horizontal construction project, at least three but not more than five persons or firms shall be on the Short List. In all other Requests for Qualification, three persons or firms shall be on the Short List.

The Procurement Officer must assure that every RFQ Instruction Packet issued is documented so all firms may be notified if an amendment is issued to the solicitation.

EVALUATION CRITERIA

The Department Procurement Officer is responsible for creating the detailed evaluation criteria that shall be used in the evaluation and selection decision. The contractor/consultant selection criteria contained in the SELECTION CRITERIA AND FORMS section should be used as a starting point in creating the criteria. It is not essential that the total points or the evaluation criteria add up to 100 points or any specific number. However, it is important to ensure that the most important criteria carry the most points relative to the point total. By statute, fees, price, man-hours or any other cost information cannot be used in the selection process. The County Engineer must approve the criteria before advertising or use.

EVALUATION COMMITTEE

The construction-manager-at-risk procurement process requires two contracts: a design contract and a construction (contractor-at-risk) contract. Each contract shall have its own evaluation committee. The department director shall determine the number and qualifications of the selection committee members within the following parameters. The selection committee for construction services shall not have more than seven members, except that, if the contract involves the County and additional governmental or private participants, the number of members of the selection committee shall be increased by one for each additional participant, except that the maximum number of members of the selection committee is nine. The selection committee for construction contracts shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or an engineer who is registered pursuant to A.R.S. §32-121. These members may be employees of the County or of outside consultants. Outside contractors, architects and engineers serving on a selection committee shall not receive compensation from the agent for performing this service, but the County may elect to reimburse outside contractors, architects and engineers for travel, lodging and other expenses incurred in connection with service on a selection committee. A person who is a member of a selection committee shall not be a contractor under the contract or provide construction, construction services, materials or services under the contract. A Procurement Officer is strongly recommended to be a member of the evaluation committee. If this is not practical or possible, the Procurement Officer will, at a minimum, act in an oversight capacity to verify that selections were properly conducted.

Prior to the evaluation process, the Procurement Officer should ensure the evaluation committee members understand their responsibilities during the evaluation. These responsibilities include:

1. Evaluation based on published criteria only
2. Avoidance of even the appearance of bias or conflict of interest
3. Preservation of integrity of evaluation process
4. No leading questions asked of firms during interviews
5. No correspondence or communication with firms without providing the same information to all of the firms
6. No preferential treatment
7. Same basic questions asked of all firms

A copy of a typical notification memo sent to evaluation team members is included in the SELECTION CRITERIA AND FORMS section. This form or a similar form should be sent to the evaluation team members to ensure they understand the selection process and timing. Selection committee members from outside the department or staff that have professional outside employment should complete the Confidentiality and Conflict of Interest Certification form. This form is included as the third page of the notification memo.

SHORTLIST PROCESS

Once the RFQs are received by the Departmental Procurement Officer, they are distributed to the evaluation committee members with a score/ranking form for each. The published criteria should also be included so each committee member is aware of the evaluation criteria.

Committee members independently review and evaluate each RFQ response. Committee members then meet to make a shortlist. Final calculations are individually made and each member ranks the respondents, based on their final score. A meeting should be conducted to review and compare the grades. Significant deviations should be noted and discussed by the committee to ensure all appropriate information is considered by the Committee.

In identifying the Short List, the selection committee shall:

- a. Evaluate the statements of qualifications and performance data that are submitted in response to the Request for Qualifications for the proposed contract.
- b. If determined by the department director and included by the department in the Request for Qualifications, conduct discussions with at least the number of persons or firms to be included on the Shortlist as stated in the Request for Qualifications but not more than the number of persons or firms to be included on the Shortlist plus two as specified in the Request for Qualifications regarding the contract and the relative methods of approach for furnishing the required professional services or construction services.
- c. In order of preference, based on criteria approved by the County Engineer and published by the department and included in the Request for Qualification, select a Shortlist of persons or firms the selection committee deems to be the most qualified to provide the professional services or construction services. The number of persons or firms on the Shortlist shall be the number of persons or firms specified in the Request for Qualifications, except that if a smaller number of responsive and responsible persons or firms respond to the solicitation, the selection committee may proceed with the selection process with the remaining persons or firms if at least two persons or firms remain. The department may also re-advertise, as the department head deems necessary or appropriate.
- d. Base the selection and order of preference on demonstrated competence and qualification only.
- e. Not request or consider fees, price, man-hours or any other cost information in the selection or order of preference.

Upon determination of the shortlist, the Committee Chairman will draft a memo to the department head identifying the short listed firms and asking for concurrence to proceed with the selection of the top ranked firm or to proceed with discussions (interviews) with the shortlist.

If the department head selection differs from that of the committee, written justification will be prepared and forwarded to the County Engineer for final approval.

(NOTE: Refer to A.R.S. §34-607.B.4. This statutory section allows a price breakout by individual building, public work or other division of the contract. The breakout would allow completion of the individual work and release of the related retention.)

LIMITED RESPONSES

- A. The number of persons or firms selected by the Evaluation Committee to be on the Shortlist shall be the number of persons or firms specified in the Request for Qualifications except that:
 - 1. If a smaller number of responsive and responsible persons or firms respond to the solicitation, the selection committee may proceed with the selection process with the remaining person or firms if at least two persons or firms remain. The department may also re-advertise as the department director deems necessary or appropriate.
 - 2. As to professional services selection only, if only one responsive and responsible person or firm responds to the solicitation, the department may proceed with the one person or firm on the Shortlist and the County may award the contract to a single person or firm if the department determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons or firms had reasonable opportunity to respond or there is not adequate time for a re-solicitation.
- B. The agent shall award the contract to one of the persons or firms on the Shortlist except that if fewer than the number of persons stated in RFQ but at least two submit a responsive proposal or if one of the shortlisted firms drop out of the selection process, then:
 - 1. If there are three or more remaining persons or firms, the department shall proceed with the selection process.
 - 2. If there are only two remaining persons or firms, as the department director deems necessary and appropriate, the department director may elect to proceed with the selection process with the two persons or firms or may elect to terminate the selection process and may elect to re-advertise.
 - 3. If there is only one remaining person or firm, the department shall terminate the selection process and may elect to re-advertise, except as to professional services only, the agent may award the contract to a single person or firm if the department determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons or firms had reasonable opportunity to respond or there is not adequate time for a re-solicitation.

DISCUSSIONS

While discussions with proposers is authorized, care must be taken to neither compromise proposer's approach or proprietary information nor provide one proposer with clarifying information without providing that same clarifying information to everyone else.

FINAL SELECTION

Upon determination of the short list, the Committee Chairman will draft a memo to the department head identifying the shortlisted firms and asking for concurrence to proceed.

If the department head selection differs from that of the committee, written justification will be prepared and forwarded to the County Engineer for final approval.

NEGOTIATIONS

(NOTE: Refer to A.R.S. §34-607.B.4. This statutory section allows a price breakout by individual building, public work or other division of the contract. The breakout would allow completion of the individual work and release of the related retention.)

The department shall enter into negotiations for a contract with the highest qualified person or firm. The negotiations shall include consideration of compensation and other contract terms that the department determines to be fair and reasonable to the County. In making this decision, the negotiating team shall take into account the estimated value, the scope, the complexity and the nature of the services to be rendered. If the negotiating team is not able to negotiate a satisfactory contract with the person or firm considered to be the most qualified at a price the agent determines to be fair and reasonable, the department director shall formally terminate negotiations with person or firm. The department may undertake negotiations with the next most qualified person or firm in sequence until an agreement is reached or a determination is made to reject all persons or firms on the Shortlist. If a contract for construction services is entered into pursuant to this subsection, construction shall not commence until the County and contractor agree in writing on a fixed price or a guaranteed maximum price for the construction to be commenced.

GENERAL CONSIDERATIONS

Until award and execution of a contract by the County, only the name of each person or firm on the Shortlist shall be available to the public. All other information received by the County in response to the Request for Qualification or contained in the proposals shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing offerors during the selection process. The proposals shall be open to public inspection after the contract is awarded and the County has executed the contract. To the extent that the offeror designates and the department concurs, trade secrets and other proprietary data contained in a proposal remain confidential.

A department may cancel a Request for Qualifications or a Request for Proposals or reject in whole or in part any or all proposals as specified in the solicitation if it is in the

best interest of the County. The department shall make the reasons for cancellation or rejection part of the contract file.

Notwithstanding any other law:

1. The contractor for construction services is not required to be registered to perform design services pursuant to Title 32, Chapter 1 if the person or firm actually performing the design services on behalf of the contractor is appropriately registered.
2. The contractor for construction services is not required to be licensed to perform construction pursuant to Title 32, Chapter 10 if the firm actually performing the construction on behalf of the contractor is appropriately licensed.

Notwithstanding anything to the contrary in this appendix or in A.R.S. Title 34:

1. The estimated cost of the project shall not include the cost to procure any right-of-way or other cost of condemnation.
2. No procurement of any horizontal construction using the construction-manager-at-risk method of project delivery is authorized after June 30, 2010. For purposes of this paragraph, procurement for horizontal construction occurs when the contract for the construction services is executed by the County and the contractor for the construction services. If a contract is executed for construction services on or before June 30, 2010, construction services under the contract may be rendered in whole or in part after June 30, 2010.
3. For the purposes of this paragraph, "Specific, single project" means a project that is constructed at a single location, at a common location or for a common purpose.

Notwithstanding anything to the contrary in this appendix or in A.R.S. Title 34, the County shall not:

1. Enter into a contract as contractor to provide construction-manager-at-risk construction services.
2. Contract with itself, with another agent, with this state or with any other government unit of this state or the federal government for the agent to provide construction-manager-at-risk construction services.
(The prohibitions prescribed in this section do not prohibit the County from providing construction for itself as provided by law.)

For the purposes of this chapter, "Professional Services" includes architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services.

EMERGENCY PROCEDURES

Notwithstanding any other provisions of A.R.S. Title 34, Sections MC1-346 and MC1-347 of this Code, the County Administrative Officer may make or authorize others to make emergency procurements of architect services, construction-manager-at-risk construction services, design-bid-build construction services, design-build construction services, engineer services, job-order-contracting construction services, landscape architect services, assayer services, geologist services or land surveying services if a threat to the public health, welfare of safety exists or if a situation exist that makes

compliance with Title 34 impracticable, unnecessary or contrary to the public interest, except that these emergency procurements shall be made with such competition as is practicable under the circumstances. In addition to the requirements stated in MC1-346 and MC1-347 of this Code, a written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

MISCELLANEOUS

Information on the following topics is contained in A.R.S. Title 34, Chapter 6:

CONTRACT,
PAYMENT TO CONTRACTOR,
SECURITY,
RECOVERY OF DAMAGES BY CONTRACTOR FOR DELAY,
PROGRESS PAYMENTS

Review of retention requirements noted in A.R.S. §34-607.B.7 is strongly suggested. Retention is on amounts payable for construction and not applicable to amounts payable for related services.

CHAPTER V

JOB-ORDER-CONTRACTING

DEFINITION

Job-order-contracting is a project delivery method in which:

- A. The contract is a requirements contract for indefinite quantities of construction.
- B. The construction to be performed is specified in job orders issued during the contract.
- C. Finance services, maintenance services, operations service, pre-construction services, design services, and other related service may be included.

GENERAL

- A. Except for consultant services procured in accordance with Chapter II, Section 2 of this Procedures Manual, job order contracting construction services will be procured in accordance with this appendix.
- B. Except for Facilities Management and the Maricopa Integrated Health System, any department desiring to use this procurement process shall request and obtain written approval of the County Engineer prior to initiating any procurement under this concept. In addition, evaluation criteria used by any job order contracting selection committee shall be approved by the County Engineer. The criteria will be published as part of the solicitation.
- C. An agenda to authorize the advertisement and award the contract must be presented to the Board of Supervisors prior to the advertisement.
- D. The department shall provide notice of each procurement and the County shall award contracts on the basis of demonstrated competence and qualification.
- E. In accordance with the County Procurement Code, the maximum dollar amount of an individual job order shall not exceed \$250,000 except that the County Engineer may waive the individual job order limit up to the statutory limit upon submission of justification by the department director. Projects will not be fragmented and/or divided so as to allow the issuing of several jobs (assignments) that meet the monetary criteria of this procurement process.

PROCEDURES

PUBLIC NOTICES

A public notice is issued soliciting interested parties for a contract to provide the services related to the construction, remodeling and/or reconstruction of public facilities and structures. The notice must comply with A.R.S. §28-6713, Subsection A. The public notice identifies:

1. Nature or description of contract work
2. Contract number (determined by Department procedure)

3. Due date and time
4. Physical location for receipt of responses
5. Number of firms to be short-listed
6. County contact name, address, and phone number - an e-mail address may be provided if desired
7. Minority and Women-Owned Business Enterprise Program (MWBE) goals (see "Maricopa County Minority and Woman-Owned Business Enterprise Program" from this Manual for direction in setting goals)

The public notice should be reviewed by the requesting party (usually the Project Manager) prior to publication to verify that the information accurately reflects their desired services, and meets their schedule requirements. The notice must be published in the County's recognized legal newspaper.

Two separate advertisements are required: one each week for two consecutive weeks. The first advertisement must be a minimum of 30 days prior to the LOI due date. (NOTE: In exceptional cases, except for architect contracts, the County Engineer may waive the minimum advertisement time to 21 days.) The legal newspaper will send an official, notarized copy of the advertisement to verify the dates it was published. This verification will be included in the contract file.

Public notices should be included on the County's Public Works Procurement web page although this is not a legal requirement. Printed notices may also be mailed or faxed to firms listed on the County Register, or other interested parties as identified by the Procurement Officer. There is no limitation to where public notices can be advertised; professional magazines and trade journals or professional organizations are all appropriate. The Procurement Officer must use judgment, however, in determining the benefits of advertising costs above and beyond the required legal newspaper.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PARTICIPATION

It is Maricopa County's policy to endeavor to ensure that minority and woman-owned business enterprises shall have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner. The County has instituted a MWBE Program in support of this policy. [See Chapter IX and Appendix A both titled Maricopa County Minority and Women-Owned Business Enterprise Program.]

REQUEST FOR QUALIFICATIONS (RFQ) INSTRUCTION PACKET

The Public Notice gives only basic information regarding the solicitation. Interested firms are instructed to contact the County to obtain information on the RFQ format instructions. These instructions are based on standard County requirements with specific project requirements as identified by the Project Manager. The instruction packet must include the evaluation criteria approved by the County Engineer and restate the number of firms that are to be short-listed.

The Request for Qualifications shall include the number of persons or firms to be included on the Short List. In a Request for Qualification for a horizontal construction

project, at least three but not more than five persons or firms shall be on the Short List. In all other Requests for Qualification, three persons or firms shall be on the Short List.

The Procurement Officer must assure that every RFQ Instruction Packet issued is documented so all firms may be notified if an amendment is issued to the solicitation.

EVALUATION CRITERIA

The Department Procurement Officer is responsible for creating the detailed evaluation criteria that shall be used in the evaluation and selection decision. The consultant selection criteria contained in the SELECTION CRITERIA AND FORMS section should be used as a starting point in creating the criteria. It is not essential that the total points or the evaluation criteria add up to 100 points or any specific number. However, it is important to ensure that the most important criteria carry the most points relative to the point total. By statute, fees, price, man-hours or any other cost information cannot be used in the selection process. The County Engineer must approve the criteria before advertising or use.

EVALUATION COMMITTEE

Each job order-contracting contract has its own evaluation committee. The department director shall determine the number and qualifications of the selection committee members within the following parameters. The selection committee shall not have more than seven members. The selection committee shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or an engineer who is registered pursuant to A.R.S. §32-121. These members may be employees of the County or of outside consultants. Outside contractors, architects and engineers serving on a selection committee shall not receive compensation from the agent for performing this service, but the County may elect to reimburse outside contractors, architects and engineers for travel, lodging and other expenses incurred in connection with service on a selection committee. A person who is a member of a selection committee shall not be a contractor under the contract or provide construction, materials or services under the contract. A Procurement Officer is strongly recommended to be a member of the evaluation committee. If this is not practical or possible, the Procurement Officer will, at a minimum, act in an oversight capacity to verify that selections were properly conducted.

Prior to the evaluation process, the Procurement Officer should ensure the evaluation committee members understand their responsibilities during the evaluation. These responsibilities include:

1. Evaluation based on published criteria only
2. Avoidance of even the appearance of bias or conflict of interest
3. Preservation of integrity of evaluation process
4. No leading questions asked of firms during interviews
5. No correspondence or communication with firms without providing the same information to all of the firms
6. No preferential treatment
7. Same basic questions asked of all firms

A copy of a typical notification memo sent to evaluation team members is included in the SELECTION CRITERIA AND FORMS section. This form or a similar form should be sent to the evaluation team members to ensure they understand the selection process and timing. Selection committee members from outside the department or staff that have professional outside employment should complete the Confidentiality and Conflict of Interest Certification form. This form is included as the third page of the Notification Memo.

SHORTLIST PROCESS

Once the Request For Qualifications are received by the Departmental Procurement Officer, they are distributed to the evaluation committee members with a score/ranking form for each. The published criteria should also be included so each committee member is aware of the evaluation criteria.

Committee members independently review and evaluate each RFQ response. Committee members then meet to make a shortlist. During the meeting members should review and compare the grades. Significant deviations should be noted and discussed by the committee to ensure all appropriate information is considered by the committee. Final calculations are individually made and each member ranks the respondents, based on their final score.

In identifying the Shortlist, the selection committee shall:

- a. Evaluate the statements of qualifications and performance data that are submitted in response to the Request for Qualifications for the proposed contract.
- b. If determined by the department director and included by the department in the Request for Qualifications, conduct discussions with at least the number of persons or firms to be included on the Shortlist as stated in the Request for Qualifications but not more than the number of persons or firms to be included on the Shortlist plus two as specified in the Request for Qualifications regarding the contract and the relative methods of approach for furnishing the required professional services or construction services.
- c. In order of preference, based on criteria approved by the County Engineer and published by the department and included in the Request for Qualification, select a Shortlist of persons or firms the selection committee deems to be the most qualified to provide the professional services or construction services. The number of persons or firms on the Shortlist shall be the number of persons or firms specified in the Request for Qualifications, except that if a smaller number of responsive and responsible persons or firms respond to the solicitation, the selection committee may proceed with the selection process with the remaining persons or firms if at least two persons or firms remain. The department may also re-advertise as the department director deems necessary or appropriate.
- d. Base the selection and order of preference on demonstrated competence and qualification only.
- e. Not request or consider fees, price, man-hours or any other cost information in the selection or order of preference.

Upon determination of the short list, the Committee Chairman will draft a memo to the department head identifying the shortlisted firms and asking for concurrence to proceed to the evaluation interviews.

If the department head selection differs from that of the committee, written justification will be prepared and forwarded to the County Engineer for final approval.

PROCUREMENT ALTERNATIVE A

(NOTE: After the Shortlist is created, two procurement avenues are available. Alternative A directly begins a negotiation phase ultimately ending in a signed contract. Alternative B, the County preferred alternative, requires the issuance of a request for technical proposals and ultimately a priced proposal.)

(NOTE: Refer to A.R.S. §34-607.B.4. This statutory section allows a price breakout by individual building, public work or other division of the contract. The breakout would allow completion of the individual work and release of the related retention.)

ALTERNATIVE A

The County shall award a contract to one of the persons or firms on the Shortlist.

NEGOTIATIONS

The department shall enter into negotiations for a contract with the highest qualified person or firm. The negotiations shall include consideration of compensation and other contract terms that the department determines to be fair and reasonable to the County. In making this decision, the negotiating team shall take into account the estimated value, the scope, the complexity and the nature of the services to be rendered. If the negotiating team is not able to negotiate a satisfactory contract with the person or firm considered to be the most qualified at a price the agent determines to be fair and reasonable, the department director shall formally terminate negotiations with person or firm. The department may undertake negotiations with the next most qualified person or firm in sequence until an agreement is reached or a determination is made to reject all persons or firms on the Short List. If a contract for construction services is entered into pursuant to this subsection, construction shall not commence until the County and contractor agree in writing on a fixed price or a guaranteed maximum price for the construction to be commenced.

ALTERNATIVE B – The preferred alternative

The Alternative B process uses the same process as Alternative A up through the finalization of the Short List. From that point, the following procedures apply.

REQUEST for TECHNICAL PROPOSALS

The department shall issue a Request for Technical Proposals to the persons or firms on the Short List. The Request for Technical Proposals shall include:

1. The department's project schedule and project budget or life cycle budget for a procurement that includes maintenance services or operations services.
2. A statement that the contract will be awarded to the offeror whose proposal receives the highest number of points under a scoring method.
3. A description of the scoring method, including a list of the factors in the scoring method and the number of points allocated to each factor.
4. A requirement that each offeror submit separately a Technical Proposal and a Price Proposal and that the offeror's entire proposal be responsive to the requirements in the Request for Proposals.
5. A statement that in applying the scoring method the selection committee will separately evaluate the Technical Proposal and the Price Proposal and will evaluate and score the Technical Proposal before opening the Price Proposal.
6. If the department conducts discussions, a statement that discussions will be held and a requirement that each offeror submit a Preliminary Technical Proposal before the discussions are held.

LIMITED RESPONSES

- A. The number of persons or firms selected by the Evaluation Committee to be on the Short List shall be the number of persons or firms specified in the Request for Qualifications except that:
 1. If a smaller number of responsive and responsible persons or firms respond to the solicitation, the selection committee may proceed with the selection process with the remaining person or firms if at least two persons or firms remain. The department may also re-advertise as the department director deems necessary or appropriate.
 2. As to professional services selection only, if only one responsive and responsible person or firm responds to the solicitation, the department may proceed with the one person or firm on the Short List and the County may award the contract to a single person or firm if the department determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons or firms had reasonable opportunity to respond or there is not adequate time for a re-solicitation.
- B. The agent shall award the contract to one of the persons or firms on the Shortlist except that if fewer than the number of persons stated in Alternative B but at least two submit a responsive proposal or if one of the shortlisted firms listed in either Alternative A or B drop out of the selection process, then:
 1. If there are three or more remaining persons or firms, the department shall proceed with the selection process.
 2. If there are only two remaining persons or firms, as the department director deems necessary and appropriate, the department director may elect to proceed with the selection process with the two persons or firms or may elect to terminate the selection process and may elect to re-advertise.
 3. If there is only one remaining person or firm, the department shall terminate the selection process and may elect to re-advertise, except as to professional

services only, the agent may award the contract to a single person or firm if the department determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons or firms had reasonable opportunity to respond or there is not adequate time for a re-solicitation.

EVALUATION CRITERIA

The department shall develop and the County Engineer shall approve the evaluation criteria to be used in the selection process. As a minimum, the criteria shall include:

1. Offeror qualifications.
2. Offeror financial capacity.
3. Compliance with the department's project schedule.
4. The price or life cycle price for procurements that include maintenance services, operations services or financial services.
5. An offeror quality management plan.

INTERVIEWS

If the department director determines to conduct discussions, each offeror shall submit a Preliminary Technical Proposal to the department before those discussion are held.

If determined by the department and included by the department in the Request for Proposals, the selection committee shall conduct discussions with all persons or firms that submit preliminary Technical Proposal. Discussions shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and for clarification by the owner. Revision of Preliminary Technical Proposals shall be permitted after submission of Preliminary Technical Proposal and before award for the purpose of obtaining Best and Final Proposals. In conducting any discussions, information derived from proposals submitted by competing offerors shall not be disclosed to other competing offerors.

After completion of any discussion or if no discussion are held, each offeror shall submit separately the offeror's Final Technical Proposal and its Price Proposal.

FINAL SELECTION

Before opening any Price Proposal, the selection committee shall open the Final Technical Proposals, evaluate the Final Technical Proposals and score the Final Technical Proposals using the scoring method in the Request for Proposals. No other factors or criteria may be used in the evaluation and scoring.

After completion of the evaluation and scoring of all Final Technical Proposals, the selection committee shall open the Price Proposals, evaluate the Price Proposals, score the Price Proposals and complete the scoring of the entire proposals using the scoring method in the Request for Proposals. No other factors or criteria may be used in the evaluation and scoring.

AWARD

The County shall award the contract to the responsive and responsible offeror whose proposal receives the highest score under the method of scoring in the request for proposals. No other factors or criteria may be used in the evaluation.

The contract file shall contain the basis on which the award is made.

GENERAL CONSIDERATIONS

Until award and execution of a contract by the County, only the name of each person or firm on the Short List shall be available to the public. All other information received by the County in response to the Request for Qualification or contained in the proposals shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing offerors during the selection process. The proposals shall be open to public inspection after the contract is awarded and the County has executed the contract. To the extent that the offeror designates and the department concurs, trade secrets and other proprietary data contained in a proposal remain confidential.

A department may cancel a Request for Qualifications or a Request for Proposals or reject in whole or in part any or all proposals as specified in the solicitation if it is in the best interest of the County. The department shall make the reasons for cancellation or rejection part of the contract file.

If the contractor subcontracts or intends to subcontract part or all of the work under a job order and if the job order construction services contract includes descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order:

- A. The contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the contractor to do all or part of the work under one or more job orders:
 - 1. A copy of the descriptions of all standard individual task on which the subcontractor is invited to bid.
 - 2. A copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.
- B. If not previously delivered to the subcontractor, the contractor has a duty to deliver promptly the following to each subcontractor invited to or that has agreed to do any of the work included in any job order:
 - 1. A copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform.
 - 2. The number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform
 - 3. The standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform.

Notwithstanding any other law:

1. The contractor for construction services is not required to be registered to perform design services pursuant to Title 32, Chapter 1 if the person or firm actually performing the design services on behalf of the contractor is appropriately registered.
2. The contractor for construction services is not required to be licensed to perform construction pursuant to Title 32, Chapter 10 if the firm actually performing the construction on behalf of the contractor is appropriately licensed.

Notwithstanding anything to the contrary in this appendix or in A.R.S. Title 34:

1. No procurement of any horizontal construction using the job-order contracting method of project delivery is authorized after June 30, 2010.
2. For purposes of this paragraph, procurement for horizontal construction occurs when the contract for the construction services is executed by the County and the contractor for the design-build construction services.
3. If a contract is executed for construction services on or before June 30, 2010, construction services under the contract may be rendered in whole or in part after June 30, 2010.

Notwithstanding anything to the contrary in this appendix or in A.R.S. Title 34, the County shall not:

1. Enter into a contract as contractor to provide job order contracting construction services.
2. Contract with itself, with another agent, with this state or with any other government unit of this state or the federal government for the agent to provide job order contracting construction services.

The prohibitions prescribed above do not prohibit the County from providing construction for itself as provided by law.

For the purposes of this section, "Professional Services" includes architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services.

MULTI-TERM CONTRACTS

A contract may be entered into for a period of three years provided:

1. It is in the best interests of the County
2. If the terms and conditions of renewal and/or extension are included in the initial solicitation
3. Money is available for the first fiscal period of the contract.

A multi-year contract may contain provisions that state that payment and performance obligations for succeeding fiscal periods are subject to funding.

Before using a multi-term contract the department shall:

- A. Determine that the contract covers the estimated requirements and that the requirements are reasonable and continuing.

- B. Determine, in writing, that the contract will serve the best interests of the County by encouraging effective competition or otherwise promoting economies in procurement.

If the contract is not funded in a subsequent fiscal period, the contract shall be cancelled. The contractor will be reimbursed for the reasonable value of any nonrecurring costs that are incurred but not amortized in the price of the construction services delivered under the contract or that are otherwise not recoverable.

JOB-ORDER-CONTRACTING CONSTRUCTION BID SECURITY

Bid security is required for all job-order-contracting construction services awarded by competitive sealed proposals pursuant to A.R.S. §34-603, Subsection F if the department estimates that the budget for construction, excluding the cost of any finance services, maintenance services, operations services, design services, pre-construction services or other related services will be more than the amount prescribed in A.R.S. §41-2535, Subsection B. Each proposal for job-order-contracting construction services shall be accompanied by a certified check, cashier's check or surety bond in an amount equal to the amount stated in the Request for Proposals but not more than ten percent of the department's estimated budget for construction during the first year of the contract excluding any finance services, maintenance services, operations services, design services, pre-construction services or other related services, for the project as stated in the Request for Proposals.

The following additional guidance applies:

1. If the Request for Proposals requires security, noncompliance requires that the department reject the proposal for noncompliance with the security requirement, unless the department determines that the bid fails to comply in a non-substantial manner with the security requirement.
2. After the department opens the proposals, the proposals are irrevocable for the period specified in the Request for Proposals, except as provided in A.R.S. §34-603, Subsection F. If a proposer is permitted to withdraw its proposal before award, no action may be had against the proposer or the bid security.

JOB-ORDER-CONTRACTING BOND REQUIREMENTS

Payment and performance bonds are due upon request of the work assignment. The bonds will be for the full amount of the work assignment.

EMERGENCY PROCEDURES

Notwithstanding any other provisions of A.R.S. Title 34, Sections MC1-346 and MC1-347 of this Code, the County Administrative Officer may make or authorize others to make emergency procurements of architect services, construction-manager-at-risk construction services, design-bid-build construction services, design-build construction services, engineer services job-order-contracting construction services, landscape architect services, assayer services, geologist services or land surveying services if a threat to the public health, welfare or safety exists or if a situation exists that makes

compliance with Title 34 impracticable, unnecessary or contrary to the public interest, except that these emergency procurements shall be made with such competition as is practicable under the circumstances. In addition to the requirements stated in MC1-346 and MC1-347 of this Code, a written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

MISCELLANEOUS

Information on the following topics is contained in A.R.S. Title 34, Chapter 6:

CONTRACT,
PAYMENT TO CONTRACTOR,
SECURITY,
RECOVERY OF DAMAGES BY CONTRACTOR FOR DELAY,
PROGRESS PAYMENTS

Review of retention requirements noted in A.R.S. §34-607.B.7 is strongly suggested. Retention is not mandatory and if used may only be withheld at a rate of 5% not the normal 10% rate.

CHAPTER VI

CHANGE ORDERS

CHANGE ORDER AUTHORIZATION

- A. The Maricopa County Board of Supervisors through the Procurement Code has authorized the County Engineer to approve change orders of previously awarded consultant and construction contracts awarded under Article 5 of the Code. The County Engineer's change order authority is \$1,000,000.00 per contract and may be increased by the Board on a project specific basis.
- B. The following guidance is mandatory:

Change orders will conform to the guidance in Article 5 of the Maricopa County Procurement Code.

1. Change orders in excess of \$1,000,000.00 or in excess of the project specific change order authority granted to the County Engineer by the Board will
 - a. Be forwarded by the requesting department to the Board of Supervisors for approval.
 - b. Be coordinated through the Article 5 Procurement Office. The Article 5 Procurement Office will coordinate approval of the County Engineer prior to submission to the Board.
2. The County Engineer has been authorized to delegate change order authority to departments on a case-by-case basis. Until that authority has been delegated, department heads do not have change order authority and change orders must be submitted to the County Engineer for approval.
3. Department heads may submit a request for departmental change order authority to the County Engineer. The request will include justification for change order authority and also justification of the amount of authority requested. Departmental change order authority will not be authorized unless the department has a certified Article 5 Procurement Officer on staff. Construction change order authority excludes changes that involve a major bid item change as defined by M.A.G. Uniform Standard Specification for Public Works Construction. These change orders require board approval. The standard change order delegation authority limits are listed at the end of this section.
4. Request for change orders in excess of departmental authority but within the County Engineer's change order authority will be submitted by the department head to the County Engineer on a standardized form previously approved by the County Engineer.
5. All change orders/additional service requests must be signed by a certified Article 5 Procurement Officer or by the County Engineer.
6. All change orders/additional service requests must include a standardized contract modification justification form. A print out of a suggested digital format is included in this section of the manual. An alternative non-digital format is

included in Chapter VIII. All parties noted must sign the form before work is initiated.

SPECIFIC CHANGE ORDER INFORMATION

1. **TIME-ONLY CHANGES.** Contract modifications that only address changes to the time elements of a contract may be approved and signed by the Department Head without Board or County Engineer approval regardless of the modification authority status. Requirements of Paragraph 6 above must be met. (NOTE: OMB coordination may be required due to fiscal changes caused by the time changes.)
2. **DEDUCTIVE CHANGES.** Any contract modifications that result in a Reduction in the contract cost may be approved by the department head without Board or County Engineer approval unless the modification incorporates a major change in the scope of work. The requirements of Paragraph 6 above must be met.
3. **SCOPE of WORK CHANGES.** All modifications that will result in a major change in the scope of work, regardless of the cost increase or decrease, will be forwarded to the County Engineer for contracts within his signature authority or through the County Engineer to the Board for all major changes.

REAUTHORIZATION OF CONTRACT MODIFICATION AUTHORITY

Dependent upon the contract and performance conditions, a Department Head may determine that the modification authority for a specific contract requires renewal. Based upon supporting rationale, this authority may be re-authorized by the County Engineer or by the Board of Supervisors through the agenda process.

CHANGE ORDER REPORTING

In order to facilitate reporting of change orders to the Board of Supervisors, agencies authorized to issue Article 5 contract change orders must record all contract changes and report them in the format listed on the following pages. The document is an Excel document. Information will be entered after final approval of the change order.

CHANGE ORDER FORMS

The pages following the change order report contain optional forms that can be used to execute a change order to either a consultant or a construction contract. The actual digital data is supplied on a disk.

CHANGE ORDER REPORTING EXAMPLE

Program Manager		JE98-01		Hunt Jacobs A Joint Venture	
		C4799003100			
Change Order	Description	Approved	Date	CO Amount	Total
	Original Contract	BOS	03/17/99		\$16,217,439
1	Additional scope of work	BOS	08/09/00	\$9,858,928	\$26,076,367
2	See Jefferson St. Garage/FSC				\$26,076,367
Total				\$9,858,928	\$26,076,367

Civil Engineer		JE98-02		Brooks, Hersey & Associates, Inc.	
		C4799004100			
Change Order	Description	Approved	Date	CO Amount	Total
	Original Contract *	BOS	05/05/99		\$450,000
1	Increase Durango civil, relocate FSC	Williams	03/10/00	\$100,000	\$550,000
2	Relocate Durango utilities, Task 41	Buick	05/15/00	\$275,484	\$825,484
3	Increase civil coord. @ Durango/Mesa	Williams	07/24/00	\$100,000	\$925,484
4	Increase civil coord. @ Durango/Mesa	Williams	04/20/01	\$24,516	\$950,000
*Jackson St. Improvement funding \$87,000; 12.5% jail tax, 87.5% FMD.					
Total				\$500,000	\$950,000

Architectural Services - Durango & Southeast Juvenile Detention Facilities and Courts		JE99-01		Solicitation Cancelled (Refer to JE99-04)	
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Architectural Services - 4th Avenue Jail Facility		JE99-02		Durrant/HOK	
		C4000004100			
Change Order	Description	Approved	Date	CO Amount	Total
	Original Contract	BOS	09/15/99		\$9,382,386
1	Add Offsite civil engineering services	Williams	09/22/00	\$70,402	\$9,452,788
2	Scope changes	Williams	10/31/01	\$41,860	\$9,494,648
3	Scope changes	Williams	04/26/02	\$83,687	\$9,578,335
4	Scope changes	Williams	05/07/02	\$25,994	\$9,604,329
Total				\$221,943	\$9,604,329

Architectural Services - Lower Buckeye Jail Facility		JE99-03		DLR Group	
		C4000001100			
Change Order	Description	Approved	Date	CO Amount	Total
	Original Contract	BOS	07/26/99		\$11,988,270
1	Expedite Estrella Support design/constr.	Williams	10/27/99	\$58,869	\$12,047,139
2	Add CHS admin space	Buick	12/21/99	\$57,600	\$12,104,739
3	Estrella Support Value Engineering Chgs.	Buick	01/25/00	\$9,420	\$12,114,159
4	Add Offsite civil engineering services	Williams	09/22/00	\$105,805	\$12,219,964
5	Add chiller, cooling tower and lines	Williams	12/07/00	\$71,102	\$12,291,066
6	Design for LBJ radio antenna system	Williams	04/30/02	\$64,038	\$12,355,104
Total				\$366,834	\$12,355,104

Architectural Services - Durango and Southeast Juvenile Detention Facilities/Courts			JE99-05 C4000010100		CannonDworsky
			Facilities and Courts		
Change Order	Description	Approved	Date	CO Amount	Total
	Original Contract	BOS	11/03/99		\$7,267,483
1	Delete garage, add Central Plant coordination, Durango and RTC site work	Williams	12/04/00	\$316,574	\$7,584,057
2	RTC site electrical design	Williams	02/27/01	\$31,720	\$7,615,777
3	Integration of low voltage systems	Williams	03/29/01	\$97,450	\$7,713,227
4	Delete retention basin, add tcom conduit	Williams	05/16/01	(\$466)	\$7,712,761
Total				\$445,278	\$7,712,761

Architectural Services - Southeast Juvenile Facility Parking Structure		JE00-01 C4000013100		Kracor, Inc.	
Change Order	Description	Approved	Date	CO Amount	Total
	Original Contract	BOS	04/19/00		\$189,000
1	Scope changes	Williams	08/15/01	\$3,000	\$192,000
Total				\$3,000	\$192,000

Civil Engineer - MCSO Training Facilities Site Master Planning		C7000096500		Brooks, Hersey & Associates, Inc.	
Notice to Proceed	Description	Approved	Date	Amount	Total
	Original Contract	BOS	06/07/00		\$0
1	Conceptual civil site work	Leonard	11/10/00	\$5,000	\$5,000
Total				\$5,000	\$5,000

Architectural Services - Durango Parking Structure			JE00-05 C4001008100		Deutsch Associates	
			Facilities and Courts			
Change Order	Description	Approved	Date	CO Amount	Total	
	Original Contract	BOS	01/17/01		\$789,502	
1	Geotech investigation	Williams	03/23/01	\$2,400	\$791,902	
2	Scope Changes	Williams	05/15/01	\$32,748	\$824,650	
3	Add lube shop design	Williams	08/07/01	\$9,332	\$833,982	
4	Changes to Scope of Work	Williams	10/23/01	\$5,027	\$839,009	
Total				\$49,507	\$839,009	

Engineering Services - Pedestrian Bridge over the Roosevelt Irrigation District Canal		JE01-12 C4002007100		Cannon & Associates, Inc.	
Change Order	Description	Approved	Date	CO Amount	Total
	Original Contract	BOS	01/03/02		\$31,219
Total				\$0	\$31,219

CHANGE ORDER MASTER

INSTRUCTION SHEET

READ INSTRUCTION SHEET BEFORE PROCEEDING

Through the Maricopa County Procurement Code, the Board of Supervisors of Maricopa County has authorized the County Engineer to approve change orders for consultant and construction contracts awarded under Article 10 of the Procurement Code. The change order authorization amount will depend on the date that the contract was awarded by the Board of Supervisors/Directors (BOS - BOD).

These change order sheets have built-in formulas to address the change order authorization amounts and BOS - BOD award dates. The formulas calculate whether the approval authority is with the County Entity (Cty Entity), the County Engineer, or the BOS - BOD.

If the change order needs approval by the Board of Supervisors/Directors, use the applicable forms marked "BOS - BOD" on the Tabs. If the change order amount is within the County Entity Manager's or the County Engineer's authorized approval amount, use the form marked "Cty Entity" on the Tabs. The change order forms are described as follows:

- A. Construction Change Orders requiring BOS - BOD approval
- B. Construction Change Orders requiring Cty Entity approval
- C. Consultant (A/E) Change Orders requiring BOS - BOD approval
- D. Consultant (A/E) Change Orders requiring Cty Entity approval

TO BEGIN, do a "Save As" and name the file. For example, save the file as (Prefix of Cty Entity) **2002C054-01**, which represents Change Order 1 for **Contract number** (Prefix of Cty Entity) **2002C054**.

The "Tables" worksheet contains the current and previous change order matrices. The spreadsheet uses the lower authorization limit for a contract whose value falls between the "contract fee" or "contract value" figures.

CONSTRUCTION CHANGE ORDER - BOS - BOD APPROVAL													
NAME OF CTY ENTITY													
Date: 6/24/03		Change Order Number: 3		File No: 									
Contract No: XYZ 2002CXXX		Amount: \$ 59,848.00		Work Order/PCN No: 									
Contractor Name: NAME OF FIRM													
Contract Title: CONSULTANT/CONSTRUCTION XYZ PROJECT													
Initial Amount:	\$10,000,000.00	Contract Award Date:	6/9/99	Total Previous Change Orders:	\$45,000.00								
<p>The Contractor, by mutual agreement of the parties, shall make the herein described changes to the plans and specifications or do the following described work not included in the plans and specifications on the above-identified contract. All other contract terms and conditions remain unchanged.</p> <p>Approval of this change order establishes a new contract amount of \$XXX,XXX.XX and a new completion date of XXXXXXXX XX, 2002.</p> <p>Enter justification here.</p> <p style="text-align: center; margin-top: 20px;">With this Change Order, the total amount of this contract has increased XXX%.</p> <p style="text-align: center;">By reason of this proposed change 30 days extension of time will be allowed.</p> <p style="text-align: center;">The contract completion date is: 2/9/00</p>													
<p>The following financial information is submitted:</p> <table style="width: 100%; margin-top: 10px;"> <tr> <td style="text-align: right;">Initial Contract Amount</td> <td style="text-align: right;">\$10,000,000.00</td> </tr> <tr> <td style="text-align: right;">Amended Contract Amount w/ previous change orders</td> <td style="text-align: right;">\$10,045,000.00</td> </tr> <tr> <td style="text-align: right;">Current Change Order Request</td> <td style="text-align: right;">\$59,848.00</td> </tr> <tr> <td style="text-align: right;"><u>Amended Contract Amount w/ current change order</u></td> <td style="text-align: right;"><u>\$10,104,848.00</u></td> </tr> </table>						Initial Contract Amount	\$10,000,000.00	Amended Contract Amount w/ previous change orders	\$10,045,000.00	Current Change Order Request	\$59,848.00	<u>Amended Contract Amount w/ current change order</u>	<u>\$10,104,848.00</u>
Initial Contract Amount	\$10,000,000.00												
Amended Contract Amount w/ previous change orders	\$10,045,000.00												
Current Change Order Request	\$59,848.00												
<u>Amended Contract Amount w/ current change order</u>	<u>\$10,104,848.00</u>												
<p><i>We, the undersigned Contractor, having given careful consideration to the change(s) proposed, hereby agree that upon execution of this change order that we will provide all equipment, furnish all material (except as noted in the Bid Line Item Sheet), perform all work specified in Bid Line Item Sheets; and we will accept as full payment therefore the prices shown in Bid Line Item Sheet.</i></p> <p style="text-align: center;">IN WITNESS WHEREOF, the parties herein have executed this Contract Change Order:</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p style="text-align: center;">NAME OF FIRM</p> <p>Principle (Signature) _____</p> <p>Printed Name: _____</p> <p>Title: _____</p> <p>Date: _____</p> <p>Federal Tax ID Number: _____</p> </div> <div style="width: 45%; text-align: center;"> <p>NAME OF CTY ENTITY</p> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> <p>RECOMMENDED BY:</p> <p>_____ Authorized Person's Name Date AUTHORIZED PERSON'S TITLE</p> <p>LEGAL REVIEW</p> <p>Approved as to form and within the powers and authority granted under the laws of the State of Arizona to (Cty Entity).</p> <p>_____ Deputy/General Counsel Date</p> </div> <div style="width: 45%; text-align: center;"> <p>ACCEPTED AND APPROVED:</p> <p>_____ Chairman, Board of Supervisors/Director Date</p> <p>ATTEST:</p> <p>_____ Clerk of the Board Date</p> </div> </div>													
Copy to: Contract File, Controller, Project Manager													

NAME OF CTY ENTITY
XYZ 2002CXXX

Sheet 1 of 3

Bid Line Items Sheet

CONSTRUCTION CHANGE ORDER NO. 3

Provide description of work to be done, estimate of quantities, and prices to be paid, segregate between additional work at contract price, agreed price and actual cost. Unless otherwise stated, rates for rental of equipment on actual cost work cover only such time as equipment is actually used and no allowance will be made for idle times.

Bid Item No.	Description	Unit	Estimated Quantity	As-Built Quantity	Difference (+/-)	Unit Price	Difference (+/-)
1	Pencils	Package	888	333	(555.00)	\$5.00	(\$2,775.00)
1	Pencils	Package	44	43	(1.00)	\$6.00	(\$6.00)
88	Picture, computer and pencilsddk	Page	33	34	1.00	\$44.00	\$44.00
Total this Sheet						\$ (2,737.00)	

[illegible]

CONSTRUCTION CHANGE ORDER - COUNTY ENTITY APPROVAL											
NAME OF CTY ENTITY											
Change Order Number: 3		File No: XXXXX									
Date: 6/24/03	Amount: \$29,468.40	Work Order/PCN No: 120.00.00									
Contract No: XYZ 2000CXXX											
Contractor Name: NAME OF FIRM											
Contract Title: CONSULTANT/CONSTRUCTION XYZ PROJECT											
Initial Amount: \$10,000,000.00	Contract Award Date: 6/9/99	Total Previous Change Orders: \$45,000.00									
<p>The Contractor, by mutual agreement of the parties, shall make the herein described changes to the plans and specifications or do the following described work not included in the plans and specifications on the above-identified contract. All other contract terms and conditions remain unchanged.</p> <p>Enter justification here.</p> <p style="text-align: center;">With this Change Order, the total amount of this contract has increased XXX%.</p> <p style="text-align: center;">By reason of this proposed change 30 days extension of time will be allowed.</p> <p style="text-align: center;">The contract completion date is: 2/9/00.</p>											
<p style="text-align: center;">The following financial information is submitted:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">Initial Contract Amount</td> <td style="text-align: right;">\$10,000,000.00</td> </tr> <tr> <td style="text-align: right;">Amended Contract Amount w/ previous change orders</td> <td style="text-align: right;">\$10,045,000.00</td> </tr> <tr> <td style="text-align: right;">Current Change Order Request</td> <td style="text-align: right;">\$29,468.40</td> </tr> <tr> <td style="text-align: right;"><u>Amended Contract Amount w/ current change order</u></td> <td style="text-align: right;"><u>10,074,468.40</u></td> </tr> </table>				Initial Contract Amount	\$10,000,000.00	Amended Contract Amount w/ previous change orders	\$10,045,000.00	Current Change Order Request	\$29,468.40	<u>Amended Contract Amount w/ current change order</u>	<u>10,074,468.40</u>
Initial Contract Amount	\$10,000,000.00										
Amended Contract Amount w/ previous change orders	\$10,045,000.00										
Current Change Order Request	\$29,468.40										
<u>Amended Contract Amount w/ current change order</u>	<u>10,074,468.40</u>										
COUNTY ENTITY AUTHORIZATION LIMIT:		\$250,000.00									
Total Requested Change Orders		\$ 74,468.40									
Change Order Authorization Remaining		\$175,531.60									
<p><i>We, the undersigned Contractor, having given careful consideration to the change(s) proposed, hereby agree that upon execution of this change order that we will provide all equipment, furnish all material (except as noted in the bid line item sheet), perform all work specified in the bid line item sheet; and we will accept as full payment therefore, the prices shown in the bid line item sheet.</i></p>											
Contractor Name: NAME OF FIRM		Principle (Signature) 									
Contractor Address: 123 ANY STREET		Printed Name 									
SUITE 2		Title: 									
PHOENIX, AZ 85009		Date: 									
COUNTY ENTITY APPROVAL											
I certify that this change is required to accomplish the overall task for which this contract is initiated.		Division Concurrence									
Project Manager Date	Division Manager Date										
I certify that funds are available to accomplish this Change Order.		I certify that this change is within the limits authorized by the County Procurement Code.									
Controller Date	Procurement Officer Date										
General Manager Approval		County Engineer Approval									
County Entity Director/Manager Date	County Engineer Date										
Copy to: Contract File, Controller, Division Manager, Project Manager											

Sheet 1 of 3

CONSTRUCTION CHANGE ORDER NO. 3

Bid Item No.	Description	Unit	Estimated Quantity	As-Built Quantity	Difference (+/-)	Unit Price	Difference (+/-)
1	Pencils	each	20	30	10.00	\$1.00	\$10.00
2	Paper	each	10000	5000	(5,000.00)	\$5.55	(\$27,750.00)
Total this Sheet						\$ (27,740.00)	

NAME OF COUNTY ENTITY XYZ 2000CXXX Bid Line Items Sheet (Continuation) CONSTRUCTION CHANGE ORDER NO. 3							
<div> <div>Sheet 2 of 3</div> </div>							
Bid Item No.	Description	Unit	Estimated Quantity	As-Built Quantity	Difference (+/-)	Unit Price	Difference (+/-)
2	Pens	each	33	44	11.00	\$7.00	\$77.00
4	Extra Paper	each	250	30	(220.00)	\$4.44	(\$976.80)
Total this Sheet							\$(899.80)

NAME OF COUNTY ENTITY XYZ 2000CXXX Sheet 3 of 3 Bid Line Items Sheet (Continuation) CONSTRUCTION CHANGE ORDER NO. 3							
Bid Item No.	Description	Unit	Estimated Quantity	As-Built Quantity	Difference (+/-)	Unit Price	Difference (+/-)
3	Money	each	250	30	(220.00)	\$4.44	(\$976.80)
6	Computer	each	22	35	13.00	\$4,545.00	\$59,085.00
Total this Sheet						\$58,108.20	
Total all Sheets						\$29,468.40	

CONSULTANT CHANGE ORDER- BOS - BOD APPROVAL													
NAME OF COUNTY ENTITY													
	Date:	6/24/03	Change Order Number:	1									
			Amount:	\$ 250,000.00	File No: XXXXX								
Contract No:	XYZ 2000CXXX			PCN No:	120.22.22								
Consultant Name:	NAME OF FIRM												
Contract Title:	Consultant XYZ Project												
Initial Amount:	\$1,000,000.00	Contract Award Date:	5/19/99	Total Previous Change Orders:	\$44,444.00								
<p>By mutual agreement of the parties, the following contract change(s) are incorporated into the above-identified contract. Approval of this change order will establish a new contract amount. All other contract terms and conditions remain unchanged.</p> <p>Approval of this change order establishes a new contract amount of \$XXX,XXX.XX and a new completion date of XXXXXXXX XX, 2002.</p> <p>Enter justification here.</p> <p style="text-align: center;">With this Change Order, the total amount of this contract has increased XXX%.</p> <p>By reason of this proposed change 30 days extension of time will be allowed.</p> <p>The contract completion date is: 2/9/00 .</p>													
<p>The following financial information is submitted:</p> <table style="width: 100%; margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: right;">Initial Contract Amount</td> <td style="text-align: right;">\$1,000,000.00</td> </tr> <tr> <td style="text-align: right;">Amended Contract Amount w/ previous change orders</td> <td style="text-align: right;">\$1,044,444.00</td> </tr> <tr> <td style="text-align: right;">Current Change Order Request</td> <td style="text-align: right;">\$ 250,000.00</td> </tr> <tr> <td style="text-align: right;">Amended Contract Amount w/ current change order</td> <td style="text-align: right;">\$1,294,444.00</td> </tr> </table>						Initial Contract Amount	\$1,000,000.00	Amended Contract Amount w/ previous change orders	\$1,044,444.00	Current Change Order Request	\$ 250,000.00	Amended Contract Amount w/ current change order	\$1,294,444.00
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Amended Contract Amount w/ previous change orders	\$1,044,444.00												
Current Change Order Request	\$ 250,000.00												
Amended Contract Amount w/ current change order	\$1,294,444.00												
<p><i>We, the undersigned Consultant, do hereby agree that upon execution of this change order that we will perform all work as identified above, and as may be described in attachment(s) and will accept the above specified amount(s) as full payment thereof.</i></p> <p style="text-align: center;">IN WITNESS WHEREOF, the parties herein have executed this Contract Change Order:</p> <p style="text-align: center;">NAME OF FIRM</p> <p>Principle (Signature) _____</p> <p>Printed Name _____</p> <p>Title: _____</p> <p>Date: _____</p> <p>Fed Tax Id Number: _____</p> <p style="text-align: center;">NAME OF COUNTY ENTITY</p> <p style="text-align: center;">RECOMMENDED BY: _____</p> <p style="text-align: center;">ACCEPTED AND APPROVED: _____</p>													
Authorized Person's Name		Date		Chairman, Board of Supervisors/Directors									
AUTHORIZED PERSON'S TITLE				Date									
ATTEST:													
LEGAL REVIEW													
Approved as to form and within the powers and authority granted under the laws of the State of Arizona to the County Entity.													
				Clerk of the Board	Date								
Deputy/General Counsel		Date											
Copy to: Contract File, Controller, Division Manager, Project Manager													

CONSULTANT CHANGE ORDER - CTY ENTITY APPROVAL											
NAME OF COUNTY ENTITY											
		Change Order Number:		1							
Date:	6/24/03	Amount:	\$20,000.00	File No:	XXXXX						
Contract No:	XYZ 2000CXXX			PCN No:	120.22.22						
Consultant Name:	NAME OF FIRM										
Contract Title:	Consultant XYZ Project										
Initial Amount:	\$1,000,000.00	Contract Award Date:	5/19/99	Total Previous Change Orders:	\$44,444.00						
<p>By mutual agreement of the parties, the following contract change(s) are incorporated into the above-identified contract. All other contract terms and conditions remain unchanged.</p> <p>Enter justification here.</p> <p style="text-align: center;">With this Change Order, the total amount of this contract has increased XXX%.</p> <p>By reason of this proposed change 30 days extension of time will be allowed.</p> <p>The contract completion date is: 2/9/00</p>											
The following financial information is submitted:											
Initial Contract Amount \$ 1,000,000.00											
Amended Contract Amount w/ previous change orders \$ 1,044,444.00											
Current Change Order Request \$ 20,000.00											
<u>Amended Contract Amount w/ current change order \$ 1,064,444.00</u>											
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"> COUNTY ENTITY AUTHORIZATION LIMIT: \$ 97,500.00 </td> <td></td> </tr> <tr> <td style="text-align: center;">Total Requested Change Orders \$ 64,444.00</td> <td></td> </tr> <tr> <td style="text-align: center;">Change Order Authorization Remaining \$ 33,056.00</td> <td></td> </tr> </table>						COUNTY ENTITY AUTHORIZATION LIMIT: \$ 97,500.00		Total Requested Change Orders \$ 64,444.00		Change Order Authorization Remaining \$ 33,056.00	
COUNTY ENTITY AUTHORIZATION LIMIT: \$ 97,500.00											
Total Requested Change Orders \$ 64,444.00											
Change Order Authorization Remaining \$ 33,056.00											
<p><i>We, the undersigned Consultant, do hereby agree that upon execution of this change order that we will perform all work as identified above, and as may be described in attachment(s), and will accept the above specified amount(s) as full payment thereof.</i></p>											
<table style="width: 100%;"> <tr> <td style="width: 60%;">Consultant Name: Name of Firm</td> <td style="width: 40%;">Printed Name: _____</td> </tr> <tr> <td>Consultant Address: 2801 W. Durango St.</td> <td>Title: _____</td> </tr> <tr> <td style="text-align: center;">Phoenix, AZ 85009</td> <td>Date: _____</td> </tr> </table>						Consultant Name: Name of Firm	Printed Name: _____	Consultant Address: 2801 W. Durango St.	Title: _____	Phoenix, AZ 85009	Date: _____
Consultant Name: Name of Firm	Printed Name: _____										
Consultant Address: 2801 W. Durango St.	Title: _____										
Phoenix, AZ 85009	Date: _____										
COUNTY ENTITY APPROVAL											
I certify that this change is required to accomplish the overall task for which this contract is initiated.			Division Concurrence								
Project Manager _____ Date _____			Division Manager _____ Date _____								
I certify that funds are available to accomplish this Change Order.			I certify that this change is within the limits authorized by the County Procurement Code.								
Controller _____ Date _____			Procurement Officer _____ Date _____								
General Manager Approval			County Engineer Approval								
County Entity Director/Manager _____ Date _____			County Engineer _____ Date _____								
Copy to: Contract File, Controller, Division Manager, Project Manager											

CHAPTER VII

FORBEARANCE OF PAST DUE CONTRACTS

Every effort shall be made to maintain the consultant's contractual schedule and completion date. The seriousness of meeting schedules and completion dates shall be conveyed to the consultant during fee negotiations and at time of award, as well as during the performance of the contract.

During fee negotiations, the Consultant should be required to submit a work task schedule with associated cash flow for the Project Manager's approval. Contract schedule monitoring and progress payments will be based on this work task and cash flow schedule.

After award of a consulting contract, the award letter will notify the Consultant of the importance the County places on the completion date. [See Sample Letter #1] It shall notify the Consultant of the commitment the County expects from them in vigorously pursuing completion of the work to meet the completion date as specified in the contract in accordance with the approved work task and cash flow schedule.

It shall be the primary duty of the Project Manager to monitor the schedule of the Consultant during the performance of the contract. If additional or revised scope of work has been required, or if delays to the contract have occurred through no fault of the Consultant and over which the County or other agencies had control, the County shall contractually extend the completion date by issue of a Change Order. The Change Order shall be issued in a timely manner, and prior to the current contract completion date. A revised work task and cash flow schedule based on Change Order requirements shall be submitted by the Consultant for approval by the Project Manager.

On those contracts where the Consultant is not meeting the required schedule through no fault of the County or any other agencies involved in the scope of work, the County shall take a progressive approach to notify the Consultant of any schedule delays or anticipated schedule slippage. If the Consultant is not maintaining the agreed schedule, the Project Manager shall issue a letter of concern. [See Sample Letter #2] This letter shall identify specific areas of concern and address actions the Consultant shall take to recover their schedule.

If schedule delays continue to occur, the cognizant Division Manager shall issue a second letter of concern. [See Sample Letter #3] The Project Manager is responsible to identify the need to the Division Manager for the issue of this letter.

If the Consultant is unable to meet interim schedule deadlines or the final completion date, and termination is not reasonable or practical, the County may agree to a new interim deadline or completion date through forbearance of the contractual completion date. Concurrence for the forbearance is required from the Project Manager, Division Manager, Procurement Officer, and the Department Head.

Two variations of the forbearance letter are available to be used. For those contracts where the Consultant has made some effort to maintain the schedule, but has been unable to do so, Sample Letter #4 should be issued. It forbears the completion date in light of specific problems of which the Consultant has made the County aware. It

retains in full force and effect all terms and provisions of the contract and is issued by the Department Head.

Sample Letter #5 shall be used for those Consultants who have been unresponsive to the needs of the County and to their commitment to meet the contractual completion date. It specifically addresses that their poor performance on this contract may be used in determining selection for future contracts. It is also issued by the Department Head.

SAMPLE LETTER #1

Issued to all consultants after award

DATE

CONSULTANT

Address

City, State

Subject: Contract No. _____, [*Title*]
 Contract Completion Date

Congratulations on the recent award to your firm of the subject contract, [*contract title*]. Maricopa County welcomes your participation as a Contractor to the County, and we look forward to a mutually beneficial contract agreement.

We want to remind you, at this very early stage of award, of the importance the County places upon the contract completion date. Maintaining schedule milestones is imperative in meeting the County's planning and future funding goals. Completion of your contract on schedule and within budget is key to the County for funding and implementation of future public works measures. You are urged to immediately call our attention to any issues that could have a negative impact on achieving your scheduled completion date.

Your contract completion date is not only a contractual requirement, but is also a commitment on the part of your company. Throughout the term of the contract it must be treated with a high degree of importance. We expect and anticipate that this will be the case.

Again, we welcome your participation as a Maricopa County Contractor and look forward to an enjoyable and profitable relationship.

Very truly yours,

Procurement Officer

SAMPLE LETTER #2

DATE

CONSULTANT

Address

City, State

Subject: Contract No. _____, [*Title*]
 Letter of Concern

Maricopa County has recently learned that the approved schedule for the subject contract has slipped and the required completion date of _____, may not be met. We also note that the schedule slippage does not appear to be an excusable delay or due to any fault of the County. Consequently, this letter is issued to express the concern of the County and direct [*consultant*] to submit a written plan for recovery of the schedule. This plan must contain all facts relating to the delay, and shall be submitted to the Project Manager within one (1) to ten (10) calendar days of the date of this letter.

You are also advised that the County does not relinquish any of its rights and entitlements related to the completion date of the contract.

Sincerely,

Project Manager

SAMPLE LETTER #3

DATE

CONSULTANT

Address

City, State

Subject: Contract No. _____, [*Title*]
 Second Letter of Concern

Maricopa County's recent review of your contract performance reveals that through no fault of the County the work has fallen behind schedule and that the required completion date of _____, may not be met. The County anticipates [*consultant*]'s full commitment in meeting their contractual completion date.

A recovery plan has been previously requested, but the completion date continues to be in jeopardy. Accordingly, you are hereby directed to take any and all steps necessary to improve progress, regain the schedule and complete the work by the earliest possible date. A revised recovery plan shall be submitted for approval to the Project Manager within one(1) to (5) five business days of the date of this letter. The Project Manager will work closely with [*consultant*] to ascertain the viability of the recovery plan. None of the costs related to these recovery efforts shall be chargeable to the County.

As stated in previous correspondence, the County does not relinquish any of its rights and entitlements related to the completion date of the contract.

Sincerely,

Division Manager

SAMPLE LETTER #4

Letter of Forbearance (with cause)

DATE

CONSULTANT

Address

City, State

Subject: Contract No. _____, [Title]
Letter of Forbearance

Maricopa County must advise [*consultant*] that the contract completion date of _____ cannot be contractually waived. However, in view and consideration of _____, the County will forbear the contract completion date to _____.

The County reserves and retains all contractual rights and remedies under the subject contract. [*Consultant*] shall pursue all aspects of this extended schedule to ensure the successful completion of the contract and shall submit to the County a recovery plan and schedule indicating major milestones and associated dates of delivery or completion.

This forbearance letter establishes a new completion date only and shall not increase the contract price. By affixing a signature in the space provided below and returning to the undersigned, [*Consultant*] acknowledges receipt and acceptance of this forbearance letter.

Very truly yours,

[CONSULTANT] Acknowledgement

By: _____

Department Head

Title: _____

Date: _____

SAMPLE LETTER #5

Letter of Forbearance (without cause)

DATE

CONSULTANT

Address

City, State

Subject: Contract No. _____, [Title]
Letter of Forbearance

Maricopa County must advise [*consultant*] that the contract completion date of _____ cannot be contractually waived. Prior written communications notwithstanding, your firm has still not met its commitments and the County must take further action. Accordingly, the County forbears the contract completion date to _____, but will keep a record of this unsuccessful fulfillment of the contract schedule and completion date. This information may be considered on future contract selection and determination of responsibility.

The County reserves and retains all contractual rights and remedies under the subject contract. [*Consultant*] shall pursue all aspects of this extended schedule to ensure the successful completion of the contract and shall submit to the County a recovery plan and schedule indicating major milestones and associated dates of delivery or completion.

This forbearance letter establishes a new completion date only and shall not increase the contract price. By affixing a signature in the space provided below and returning to the undersigned, [*Consultant*] acknowledges receipt and acceptance of this forbearance letter.

Very truly yours,

[CONSULTANT] Acknowledgement

By: _____

Department Head

Title: _____

Date: _____

CHAPTER VIII

SELECTION CRITERIA AND FORMS

PUBLIC NOTICE

Maricopa County (IDENTIFY DEPARTMENT) is soliciting Letters of Interest and Qualifications (OR PROPOSALS) from (ENTER TYPE OF FIRM, I.E., ENGINEERING) firms for the (ENTER PROJECT NAME AND DESCRIPTION), Contract (ENTER PROJECT NUMBER).

(MAJOR TASKS OF THE PROJECT ARE ENTERED HERE).

The purpose of the study is ...

The Consultant shall ...

If your firm is interested in being considered for this project, please request the Letter of Interest Format instructions from (NAME AND TITLE OF CONTACT), (ADDRESS), telephone (PHONE NUMBER), or by e-mail at (E-MAIL ADDRESS).

Letters of Interest in the prescribed format must be received at the (COUNTY DEPARTMENT) office at the foregoing address by (TIME) on (DATE).

It is Maricopa County's policy to endeavor to ensure that minority and woman-owned business enterprises shall have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner.

A MWBE goal of (XXX) percent (XX%) has been established for this contract. Instructions are included within the LOI packet.

PUBLISH (Name of Official Newspaper): ENTER DATE(S) TO BE PUBLISHED.

LETTER OF INTEREST (LOI) INSTRUCTION PACKET

MARICOPA COUNTY

LETTER OF INTEREST REQUEST NOTICE

Contract No. XX-XX

(Name of project here - lower case)

Maricopa County (DEPARTMENT) is soliciting Letters of Interest (LOIs) from Engineering Consultants for Contract No. XX-XX.

DESCRIPTION OF WORK GOES HERE.

The consultant agrees to provide services to accomplish the work under the direction of a Registered Engineer with the State of Arizona in the appropriate discipline.

Six (6) copies of the Letter of Interest, addressed to (COUNTY CONTACT AND TITLE), must be received at the Maricopa County (DEPARTMENT AND ADDRESS) by 4:00 p.m. on _____. LOIs received late may be rejected.

The LOI shall be limited to (PROVIDE LIMITATIONS HERE, I.E. "Standard Form 255") and the MWBE Assurances Affidavit. In addition, an introductory letter of no more than two pages may be included.

From the Letters of Interest received, the Consultant Evaluation Panel will select for further consideration at least two firms more than the number of anticipated contracts. The evaluation criteria used to determine selection is enclosed. Those firms selected will be provided additional instruction. Those firms not selected for further consideration will be notified.

It is Maricopa County's policy to endeavor to ensure that minority and woman-owned business enterprises shall have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner. The County has instituted a MWBE Program in support of this policy.

A Minority Women-Owned Business Enterprise goal of _____percent (___%) has been established for this contract. A copy of the MWBE Affidavit form is attached. A copy of the MWBE Program may be accessed at <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>. A copy of the City of Phoenix and Maricopa County DBE listing may be accessed from the internet site <http://www.ci.phoenix.az.us> after reaching the city web site select "By Department", then select "Equal Opportunity" then select "Business Directory." Contact the (department name) Procurement Officer (enter name) at (enter phone number) for additional information.

LETTER OF INTEREST (LOI) EVALUATION CRITERIA

Contract No. XX-XX

(Name of project here)

1. **Firm's Capabilities** (20 to 35 Points)
The capabilities of the prime consultant and any subconsultant/subcontractors of taking on the new workload will be assessed by the County.
 - A. Does the prime consultant possess the personnel, resources, and financial capabilities to undertake this work?
 - B. Can the project team start and complete the project in accordance with the furnished contract schedule, if identified?
 - C. Does the LOI indicate that project-specific special requirements will be met?
2. **Staff Qualifications/Resumes** (20 to 35 Points)
Only permanent, full time personnel currently employed by either the prime consultant, subconsultants or subcontractors can be indicated as "employees"; on-call, part-time or anticipated staff must clearly be identified as such.
 - A. Does the project team currently have personnel with the necessary qualifications to complete the project?
 - B. If subconsultants are used, do they also have the necessary qualifications?
 - C. Are possible on-call, part-time, or anticipated staff clearly identified as such?
3. **Experience on Similar Projects** (20 to 35 Points)
The qualifications and experience of new consultants or consultants not previously having County experience will be reviewed equally with those having prior County experience.
 - A. Has the project team previously successfully completed similar projects?
 - B. Has the prime consultant completed projects of this type on time and within budget?
 - C. Does the prime consultant have experience in dealing with project-applicable governmental regulations, policies and procedures?
4. **MWBE Assurances Affidavit Form** (5 Points Or Zero Points)
Five points will be awarded only if the criteria for "a" or "b" are met. If not, zero points will be awarded. The lack of a signed and notarized affidavit (criteria "b") may cause the LOI to be rejected.
 - A. Is the prime consultant firm a properly certified MWBE firm?
 - B. Has the prime consultant firm submitted a signed and notarized "MWBE Assurances Affidavit"?

**MARICOPA COUNTY
CONTRACT XX-XX
LETTER OF INTEREST (LOI) EVALUATION**

Evaluation Committee: Shortlist Meeting: Date: Time: Location:	M A X P O I N T S	FIRM NAME				
		SCORE				
FIRMS CAPABILITIES	20-35					
STAFF QUALIFICATIONS	20-35					
EXPERIENCE/ PROJECTS	20-35					
MWBE PARTICIPATION	0 or 5					
TOTAL SCORE						
RANKING						

Committee Member: _____

(Enter Department Name)

TECHNICAL PROPOSAL AND INTERVIEW EVALUATION CRITERIA

Contract No. XXXXX

1. FIRM'S CAPABILITIES

(10 To 25 Maximum Points)

The capabilities of the Prime Consultant and any Subconsultant/Subcontractors will be assessed by the County.

- A. Does the project team currently possess the personnel and financial resources to undertake the work?
- B. Can the project team start and complete the project in accordance with the furnished contract schedule? Are capacity charts (may be included with any supportive information) furnished?
- C. Does the Proposal describe internal methods that will ensure schedule maintenance and work quality?
- D. Does the Proposal indicate that project-specific special requirements will be met?

2. STAFF QUALIFICATIONS

(10 To 25 Maximum Points)

Only permanent, full time personnel currently employed by either the Prime Consultant, Subconsultants or Subcontractors can be indicated as "employees." On-call, part-time or anticipated staff must be clearly identified as such.

- A. Does the project team currently have personnel with the necessary qualifications to complete the project?
- B. Have all anticipated professional disciplines required by the proposed contract work requirements been identified?
- C. Are on-call, part-time, or anticipated/future staff clearly identified as such?
Does the proposal indicate that project-specific special requirements will be met?

3. EXPERIENCE ON SIMILAR PROJECTS

(10 To 25 Maximum Points)

The qualifications and experience of Consultants who have no prior business experience with (enter department name) will be reviewed equally with those having prior (enter department name) experience.

- A. Has the project team previously successfully completed similar projects?
- B. Do project team personnel for proposed assignment to this project have sufficient experience?
- C. Has the project team completed projects of this type on time and within budget?

4. PROJECT UNDERSTANDING

(10 To 25 Maximum Points)

- A. Does the project team demonstrate a complete and comprehensive knowledge of the work required to successfully complete the project?
- B. Has the Prime Consultant addressed the major tasks, which indicates a good understanding of the project?

5. **PROJECT APPROACH**

(10 To 25 Maximum Points)

- A. Does the project approach clearly indicate a logical course of action?
- B. Does the project approach sufficiently address any applicable environmental concerns?
- C. Does the project approach demonstrate a basic understanding of possible
- D. Does the project approach take into consideration the public and private concerns and businesses in the area of the project?

6. **MWBE PARTICIPATION**

(5 Points Or Zero Points)

Five (5) points will be awarded only if the criteria for "a" or "b" are met. If not, zero points will be awarded. The lack of a signed and notarized affidavit (Criteria "b") may be cause for the Proposal to be rejected.

- A. Is the Prime Consultant firm a properly certified MWBE firm?
- B. Has the Prime Consultant firm submitted a signed affidavit and notarized "Proposed MWBE Participation Affidavit" indicating which Certified MWBE firms will perform a minimum of ____% of the contract work, **OR** documenting that a "good faith effort" was undertaken to employ Certified MWBE Subconsultants and submitted a "Consultant Certificate of Good Faith?"

**Technical Proposal – Interview Evaluation
Contract XXXXX**

Evaluation Committee: Interview Date: Time: Location:	M A X I M I Z E D	FIRM NAME				
1. FIRMS CAPABILITIES	10-20					
2. STAFF QUALIFICATIONS	10-25					
3. EXPERIENCE/PROJECTS	10-25					
4. PROJECT UNDERSTANDING	10-25					
5. PROJECT APPROACH	10-25					
6. MWBE PARTICIPATION	0 or 5					
TOTAL SCORE						
RANKING						

COMMITTEE MEMBER _____

(Enter Department Name)

APPRAISAL SERVICES CONSULTANT EVALUATION CRITERIA

Contract No. XXXXX

1. **PREVIOUS SERVICE** (20 Points)
What previous service does the firm have with eminent domain actions for governmental agencies? What was the level of government involved (City, County, State)?
2. **BEFORE/AFTER APPRAISALS** (20 Points)
What experience does the firm have in the preparation of before and after appraisals?
3. **SEVERANCE AND SPECIAL BENEFITS** (20 Points)
What experience does the firm have in addressing the issues of severance and/or special benefits?
4. **EXPERT WITNESS** (10 Points)
Have the firm's appraisers that are designated to perform under this contract provided testimony as an expert witness for a governmental agency?
5. **APPRAISAL OF EASEMENTS** (15 Points)
What is the firm's previous experience with easement appraisal?
6. **FIRM'S ABILITY** (15 Points)
What is the firm's ability to produce appraisals in the required time frame?

ON-CALL ASSIGNMENT ORDER**Assignment No.**____

Date:_____

Work Control Number:_____

Contract Name and Number:_____ Expiration Date:_____

By mutual agreement of the parties, the following contract assignment(s) are incorporated into Contract__. All other contract terms and conditions remain unchanged.

Brief Description of Assignment Scope of Work:_____
_____**Contract amount** \$_____**Funds available** \$_____**Previous assignment orders** \$_____**Current assignment costs** \$_____**Notice to Proceed Date:**_____ **Assignment Completion Date:**_____

We, the undersigned Consultant, hereby agree that upon execution of this assignment we will perform all services as identified in the task assignment, and will accept the above specified amount(s) as full payment therefore.

Consultant Name and Address:

_____ By:_____
Title:_____
Date:_____**On-Call (Task) Assignment Certification:** **Certification of Funds for this Assignment:**

Project Manager: _____ Controller:_____

Division Manager: _____ **County Procurement Code Certification:**

Contracts Manager:_____

APPROVED/DISAPPROVED

Department Head Signature Block

Attachment: Consultant's Fee Proposal, Assignment Scope of Work

Original to: Contract File

Copies to: Consultant, Contracts Payable, and Project Manager

**CERTIFICATION OF PERFORMANCE
OF CONSTRUCTION CONTRACT AND PAYMENT OF ALL CLAIMS**

_____ hereby certifies to the Maricopa County (County)
(Name of Signer)

that all lawful claims for labor, rental of equipment, material used, and any other claims by **INSERT FIRMS NAME HERE** or its subcontractors and suppliers in connection with performance on **INSERT CONTRACT NUMBER HERE** for **INSERT CONTRACT TITLE HERE** have been duly discharged as required by Arizona Revised Statutes, Section 34-221 and Maricopa Association of Governments Uniform Standard Specifications for Public Works Construction (MAG), Section 109.7.

INSERT FIRMS NAME HERE understands that with receipt of payment for previously invoiced amounts plus any retained funds and/or release of escrow funds, that this is a settlement of all claims of every nature and kind against the District arising out of the performance of the County's Contract **INSERT CONTRACT NUMBER HERE** relating to the material, equipment, and work covered in and required by this contract.

The undersigned hereby certifies that to his/her knowledge no contractual disputes exist in regard to this contract, and that he/she has no knowledge of any pending or potential claim in regard to this contract.

Upon submission of this Certificate of Performance and an invoice for any applicable retained funds, the District will process final payment and release applicable escrow funds in accordance with the Contract and MAG requirements.

State of Arizona)
)§
County of Maricopa)

Signed this _____ day of __, 200__.

Signature

Title

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 200__.

Notary Public

My Commission Expires:_____

CERTIFICATE OF PERFORMANCE
ON-CALL CONTRACT INSERT CONTRACT NUMBER HERE

The Maricopa County (District) accepts the completed work by INSERT FIRM HERE or its subcontractors in connection with the scope of work described in District Contract FCD INSERT CONTRACT NUMBER HERE. Whereas the completion date for this On-Call Contract has passed, the District will not authorize any new work assignments to this Contract.

INSERT FIRM HERE certifies that all work covered in and required by Contract FCD INSERT CONTRACT NUMBER HERE has been completed, payments requested and received, and that all claims of any nature or kind against the District arising out of performance of the Contract are settled. The undersigned hereby certifies that no contractual disputes exist in regard to this Contract and that there is no knowledge of any pending or potential claims in regard to this Contract.

This document hereby formally closes the contractual relationship between the District and INSERT CONTRACT TITLE HERE for Contract FCD INSERT CONTRACT NUMBER HERE. No further requests for payment will

By affixing signatures below, the District and INSERT CONTRACT TITLE HERE mutually acknowledge completion and termination of the Contract FCD INSERT CONTRACT NUMBER HERE.

State of Arizona)
)§
County of Maricopa)

Signed this ____ day of _____, 200__.

Signature

Title

SUBSCRIBED AND SWORN TO before me this ____ day of _____ 200__.

Notary Public

My Commission Expires: _____

**CERTIFICATE OF PERFORMANCE AND PAYMENT OF ALL CLAIMS
ENGINEERING AND SURVEYING SERVICES CONTRACT**

_____ hereby certifies to the **INSERT FIRM HERE** of Maricopa County (*Name of Signer*) that all lawful claims for labor, rental of equipment, material used, and any other claims by _____ or subcontractors in connection with the project described in County Contract _____ for _____ have been paid.

_____ understands that with receipt of payment for previously invoiced amounts plus any retained monies, that this is a settlement of all claims of every nature and kind against the County arising out of the performance of the County Contract _____, relating to the material, equipment, and work covered in and required by the contract.

The undersigned hereby certifies that to his/her knowledge, no contractual disputes exist in regard to this contract and that he/she has no knowledge of any pending or potential claims in regard to this contract.

Upon submission of this document and a separate invoice for any retained funds to the County, invoice processing will be completed within forty-five (45) calendar days.

State of Arizona)
)§
County of Maricopa)

Signed this ____ day of _____, 200__.

Signature

Title

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 200__.

Notary Public

My Commission Expires: _____

CERTIFICATION OF INITIAL NOTIFICATION AND DISPUTE RESOLUTION

BY CONTRACTOR

STATE OF _____)
County of _____)§

_____ being first duly sworn, deposes and says:

I, _____ of _____ is notifying the

County in reference to **Contract No** _____
(Contract Number)

for _____, in the
(Contract Title)

County of Maricopa, State of Arizona, of a dispute in connection with the above-referenced project.

Description of the nature of the issue:

Time, day, and date problem was discovered:

_____ a.m./p.m. _____
Time Day Date

If appropriate, location of the issue:

Subscribed and sworn to before me this _____ day of _____, 200__.

(Notary Public)

My Commission Expires

(Department Letterhead)

DEPARTMENT SOLICITATION MEMORANDUM

DATE:

TO: (Committee member)

FROM: (Procurement Officer)

SUBJECT: (Project Name)

A solicitation for the procurement of (Consultant or Construction) services to the (Department) for the (Project Name) will be advertised. This is a Maricopa County Procurement Code Article 5 procurement for (Consultant or Construction) selection, requiring an Evaluation Committee to make a qualification-based selection recommendation. Your assistance in this evaluation and selection process is requested.

(Explain project and scope of work)

The selection schedule is as follows:

(Date) Advertisement begins – Please refer any calls from consultants (or contractors) to the Procurement Officer.

(Date) Letters of Interest (LOIs) are due at (Time). LOI Packets will be distributed to committee members for their review.

(Date) Committee will make a shortlist recommendation. (Time/Place of meeting)

If a two-step process, include the following:

(Date) Shortlisted firms will be issued a Request for Proposals (RFPs).

(Date) The proposals will be due and distributed to committee members for their review.

If a one-step process, continue with the following:

(Date) Committee will conduct interviews at (Place of meeting and length of time).

(Date) The Committee will make the final recommendation for selection.

Each Committee member will have one vote. They will be required to attend all Evaluation Committee meetings and Committee activities must take priority over regular work assignments during the period the Committee is established. Committee members will be responsible for complying with the confidentiality and conflict of interest requirements, as outlined on the attached "Confidentiality and Conflict of Interest Certificate," which must be returned to the Procurement Officer prior to beginning the evaluation process.

It will be the Committee's responsibility to (1) assess both the proposal and the offeror's ability (as conveyed by the proposal) to successfully accomplish the proposed work; (2) make a determination of the offeror's understanding of the work and ability to perform;

and (3) ensure selection of the Consultant whose proposal has the highest degree of realism and whose performance is expected to best meet the stated RFP requirements and provide the best value for the County.

(Optional: Provide explanations of the Letters of Interest, Technical Proposals, and Interviews processes. Examples are provided below.)

The following is an explanation in each step of the selection process:

Letter of Interest Process: Review the LOI request notice, attached in your packets, which identifies the evaluation criteria for the LOIs. Upon reading each consultant's LOI, score each firm and bring your score sheets and LOIs to the first meeting. The committee will tally the scores, rank the firms, and identify the shortlisted firms. We do allow for discussion of the LOIs so do not hesitate to state your questions or observations. Upon this completion of our scoring, please sign your forms as the "reviewer" and submit to the Procurement Officer.

Technical Proposal Process: We will submit the technical proposal requests to the short-listed firms, await the return of their proposals, and interview those shortlisted firms. Upon delivery of the firms' technical proposals, the proposals and another score sheet will be delivered to you. You will want to review the technical proposals prior to the consultant interviews.

Consultant Interviews: At the scheduled time for the shortlisted consultant's one-hour oral presentation, they will be prepared to discuss their proposed staff assignments to this project, the approach to the technical aspects of the project, and their ability to perform the tasks described in the attached scope of work.

Upon completion of all interviews, the committee will score and rank the firms based on the technical proposals received and the interviews conducted. The top-ranked Consultant will be asked to enter into fee negotiations with the Department. Please sign the evaluation forms and submit to the Procurement Officer. Upon selecting the consultants, the Department will finalize the scope, fees, contract, and send to the Board of Supervisors for award.

Evaluators must be cautioned against (1) irrational evaluations that involve processes that are inherently biased; (2) evaluations not in compliance with the stated RFP criteria; (3) arbitrary evaluations; and (4) evaluations not based on evidence.

If you have any questions, please feel free to contact (Procurement Officer's name and number).

cc: Committee Members
Contract Specialist

CONFIDENTIALITY AND CONFLICT OF INTEREST CERTIFICATION

To: (Procurement Officer)
(Department)

In anticipation of my participation in the Evaluation Committee which has been formed to evaluate Letters of Interests (LOIs) and Requests for Proposals (RFPs) and to recommend a selection for award for **(Project Name and Contract Number)**,

I certify that I will not disclose any information either during the proceedings of the evaluation or any subsequent time concerning the evaluation to anyone who is not also authorized access to the information by Maricopa County Procurement Code, law or regulation, and then only to the extent that such information is required in connection with such person's official responsibilities. Furthermore, I will report to the Chairperson any communication concerning the procurement or the Committee's composition and activities directed to me from any source outside the Committee.

I also certify:

1. I shall not use "privileged information" acquired through my participation on the Committee for personal gain.
2. I do not have any financial interest that conflicts substantially, or even appears to do so, with duties and evaluation as a member of the Committee.
3. Neither I, my spouse, nor my child will accept anything of monetary value from any person or company, seeking to do business through this selection. (Even seemingly trivial courtesies can present the appearance of impropriety or create a subtle sense of obligation and must be avoided.)

Name: _____

Date: _____

(Contract Number)

CHAPTER IX

MARICOPA COUNTY MINORITY and WOMEN-OWNED (MWBE) BUSINESS ENTERPRISE PROGRAM

The Article 5 aspect of the Maricopa County Minority and Women-Owned Business Enterprise (MWBE) Program (APPENDIX A) will be implemented through the department Article 5 Procurement Officer or the department head of a department that does not have an Article 5 Procurement Officer. Each fiscal year, the County MWBE team will establish and publish annual County goals. Each department is expected to take every reasonable action to attain the same percentage as identified in the County goal statement. For example, if the County goal for MWBE participation on construction contracts is 12%, then each department should plan to achieve 12% MWBE participation on their own individual construction contracts over the course of the fiscal year. This will require the department to vary individual contract goals in accordance with the known availability of certified MWBE firms.

Department Procurement Officers will:

1. Evaluate consultant contracts for potential MWBE participation.
2. Establish MWBE goals for each consultant contract (Zero is a realistic goal if no MWBE participation is possible).
3. Evaluate documentation of good faith effort.
4. Monitor consultant and/or contractor contract payments to ensure an appropriate level of participation for each contract.
5. In coordination with the design engineer and the project manager, establish realistic goals for construction contracts.
6. Coordinate and facilitate a MWBE Outreach and Networking reception in conjunction with any Pre-Proposal or Pre-Bid Meeting.
7. Monitor contractor payments to ensure the required level of participation for each contract is attained.
8. Report actual contractor participation and Procurement Officer outreach participation on a quarterly basis to the County MWBE Team.
9. Participate in County-hosted MWBE outreach events, and represent Maricopa County at MWBE outreach events hosted by the Parity Partners.
10. Keep the department head apprised of program progress.

MWBE GOOD FAITH EFFORT AND NON-ATTAINMENT GUIDELINES AND FORMS

The purpose of the Certificate of Good Faith Effort is to document the consultant or contractor's efforts to obtain MWBE participation in order to meet the contract MWBE goal. Use of these forms should be the exception rather than the rule. Failure to attain the MWBE goal or submit a verifiable Certificate of Good Faith Effort is a basis for proposal/bid rejection on the basis of being non-responsive.

There are two Certificates of Good Faith Effort and two Non-Attainment Certificates, one each for consultant use and one each for contractor use. The Certificate of Good Faith Effort will be used when the consultant or the contractor indicates on the MWBE Assurances Affidavit that they will provide the necessary documentation to establish that a good faith effort has been made to attain the desired MWBE goal. The Non-Attainment Certificates will be used at the end of the contract to document why a consultant or contractor did not meet the agreed upon MWBE goal during the execution of the contract. Use of the Good Faith Effort form is not mandatory provided the corporation/firm submitting the information uses a standardized internal procedure that documents the information required to be submitted on the Good Faith Effort form.

Procurement Officers will review the information submitted on the Certificate of Good Faith Effort so as to determine the level of compliance. The certificate must document that consultants or contractors submitting the Certificate of Good Faith Efforts have contacted all of the partners listed on the Parity Partner Coordination List. They must be able to produce the names, phone numbers, date and times of contact and results of the contact for each agency in the Parity Partner Coordination List and of the MWBE firms they contacted that was either referred to them by the Parity Partners, listed in the Maricopa County Certified DBE Directory, or sourced by any other means. At the discretion of the Procurement Officer, the Procurement Officer should conduct random checks of the firms that the consultant/contractor contacted using the contact information provided by the consultant/contractor in the Certificate of Good Faith Effort.

MWBE PRE-PROPOSAL/PRE-BID RECEPTION

- A. Pre-Bid Reception. The Department Article 5 Procurement Officer, the department head, or a designee may coordinate, facilitate, and host a MWBE reception in conjunction with any mandatory Pre-Bid meeting. The Department Article 5 Procurement Officer, the department head, or a designee may also coordinate, facilitate, and host a MWBE reception in conjunction with any construction contract whose estimated cost exceeds \$5,000,000. The following general guidelines will apply:
1. Potential A/E consultants or construction bidders will be notified via the solicitation documents that participation in the MWBE reception will count toward their good faith effort if they are unable to meet the MWBE participation goal.
 2. Potential A/E consultants or construction bidders shall be required to provide prior notification to the County Department of their intention to participate in the MWBE reception. The purpose of this notification is to ensure that adequate tables and space are available for displays or other support materials.
 3. A brief description of the scope of work, the project schedule, and the estimated contract value will be provided to the MWBE Team, Parity Partners, and

Maricopa County/City of Phoenix certified firms. In addition, the MWBE Team, Parity Partners, and Maricopa County/City of Phoenix certified firms will also be informed of the date, time and location of the pre-proposal or pre-bid meeting. Certified firm labels for pre-proposal or pre-bid meeting networking event invitations can be obtained by contacting the City of Phoenix Equal Opportunity Department at 602-262-6790 directly or by request to a MWBE Team member.

[Note The Parity Partners will notify their membership (MWBE firms) of the meeting and the reception.]

4. The decision to have or not have refreshments at the MWBE reception rests with the department. It is suggested that department budget funds to cover this minor expense. As an alternative and at the discretion of the department director, the scope of the A/E contract could include a task to coordinate a pre-bid MWBE reception and provide refreshments at that reception.
5. The following language will be included in all solicitations in which a pre-proposal or pre-bid meeting is anticipated.

“Immediately following the pre-proposal (pre-bid) meeting, the County will sponsor an informal reception for A/Es (general contractors) and MWBE subconsultants, subcontractors, vendors and suppliers (list as appropriate for the project). The reception is being conducted to afford the A/Es (general contractor) community and the MWBE community the opportunity to meet and establish contacts to further enhance MWBE contracting opportunities on Maricopa County projects.”

“The MWBE goal for the xxxxx Contract is XX%. Participation in the reception will significantly facilitate and enhance the proposer’s (bidder’s) efforts to achieve and exceed this goal.”

“The reception will be held from approximately XXXX to XXXX at the location of the pre-proposal (pre-bid) meeting. Tables will be available for A/Es (general contractors) to introduce their firms and exchange information with the MWBE firms. A/Es (general contractors) should reserve a table by contacting XXXXX no later than XXXXX.”

B. Pre-Proposal Reception.

1. Due to the smaller size and complexity of County consultant contracts, MWBE pre-proposal type meeting may be held as a minimum on an annual basis. If the number and complexity of consultant contracts will support additional meetings the meetings may be held more frequently. The objective of these meetings is to provide a format during which minority and woman-owned businesses have the opportunity to meet prime consultant firms and potentially establish a working relationship. A format for bringing consultants and MWBE consultant firms together might be a consultant forum similar to those conducted at the Flood Control District and at the Department of Transportation. However, any large consultant projects (in excess of \$5,000,000) should have its own pre-proposal reception.

2. Receptions should be coordinated and organized such that prime consultants can easily be identified. In addition, the department's plan for use of consultant over the next 12 months should be clearly displayed at the reception.

GUIDANCE FOR CALCULATING MWBE PARTICIPATION

- A. All MWBE firms used in attainment of the goal must be certified with the City of Phoenix (City of Phoenix Certified Business Directory). In addition, only those firms certified prior to the Letter of Interest submittal date or Technical Proposal due date (for advertised solicitations) will be considered in the attainment of the goal.
- B. Prime consultant subcontracts to MWBE:
The MWBE amount to be applied to goal will be based on that portion (dollar value) of the contract that the MWBE performs. For example, if a prime consultant subcontracts work amounting to \$10,000 of a contract for which the total project cost is \$100,000, the MWBE participation will be credited as 10 percent.
- C. Prime Minority Consultant:
A MWBE prime consultant will be credited with the participation for that portion of the contract, which they themselves perform plus those portions, subcontracted to other firms. For example, if a MWBE prime consultant proposes to perform 50 percent of a project quoted at \$100,000 and subcontracts 25 percent to an MWBE firm, participation will be credited as 75 Percent, or \$75,000.
- D. Minority-Non-Minority Joint Venture:
A joint venture consisting of MWBE participation and non-business enterprises, functioning as a prime consultant, will be credited with minority participation on the basis of the percentage of profit accruing to the MWBE firm. For example, if a MWBE and non-MWBE joint venture proposes to perform 50 percent of a \$100,000 project and 50 percent of the joint venture profits (\$50,000) are to accrue to the MWBE partner in the joint venture, MWBE participation will be credited at 25 percent or \$12,500.
- E. Lower Tier Non-MWBE Participation:
MWBE subconsultants/subcontractors proposing to further subcontract to non-MWBE consultants/contractors shall not have that portion of subcontracting activity considered when determining the percentage of MWBE participation.
- F. MWBE Suppliers:
Any MWBE supplier that manufactures or substantially alters the material or products it supplies will have that portion of activity considered when determining the percentage of MWBE participation.

SUBSTITUTION OF SUBCONTRACTORS OR SUBCONSULTANTS:

The prime consultant shall request approval to replace an approved MBE and/or WBE subconsultant/subcontractor that is unable or unwilling to perform successfully on a contract with another MBE and/or WBE. This failure does not relieve the consultant's from its responsibility of meeting the MWBE participation goals on the contract. A written request for substitution must be made to the Owner's Procurement Officer or, through the appropriate Owner's representative. The substitute MBE and/or WBE obtained to perform an equal or greater dollar value of work, must be approved by the Owner's Procurement Officer, through the appropriate Owner's representative, prior to beginning of any work by the substitute MBE and/or WBE.

The request for substitution must include, but is not limited to the following:

- a. Reason for substitution.
- b. Name, address and telephone number of the approved MBE and/or WBE.
- a. Name, address and telephone number of the MBE and/or WBE substitute.
- b. Item, numbers, description of work and the proposed MBE and/or WBE dollar amount.
- c. Completed Certificate of Good Faith Effort if the substitute subconsultant or subcontractor is not a MBE and/or WBE.

PARITY PARTNER COORDINATION LIST

The Maricopa County Parity Partners is a partnership of business leaders of various associations and government agencies interested in increasing procurement opportunities for minority and women-owned business enterprises. The Parity Partners are committed to serve in an advisory capacity for two years to the Maricopa County Minority and Women-Owned Business Enterprise Program. The Parity Partners are available to the community for advice, assistance, and guidance in doing business with minority and women-owned businesses.

Jackie Johnson

City of Phoenix
Equal Opportunity Department
251 West Washington, 7th Floor
Phoenix, AZ 85003
Tele: 602-261-8551
Fax: 602-534-1785
jacqueline.johnson@phoenix.gov

Ricardo Carlo

Associated Minority Contractors of America
802 North 5th Avenue
Phoenix, AZ 85003
Tele: 602-495-0026
Fax: 602-495-9943
amca@qwest.net

Ron Williams

Grand Canyon Minority Supplier Development Council
802 North 5th Avenue
Phoenix, AZ 85003
Tele: 602-495-9950
Fax: 602-495-9943
Ron.Williams@gcmsdc.org

Isauro “Izzy” Gonzalez

Arizona Minority Business Development Center
255 East Osborn Road, Suite 202
Phoenix, AZ 85012
Tele: 602-248-0007
Fax: 602-279-8900
izzyg@azhcc.com

Lisa Wormington

Arizona Department of Transportation
1135 North 22nd Avenue, 2nd Floor
Phoenix, AZ 85007
Tele: 602-712-7761
Fax: 602-712-8429
LWORMINGTON@DOT.STATE.AZ.US

Manuel Cisneros

Governor's Office of Equal Opportunity
1700 West Washington, Suite 156
Phoenix, Arizona 85007
Tele: 602- 542-3716
Fax: 602-542-3712
mcisneros@az.gov

**MARICOPA COUNTY
MINORITY WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM
MWBE ASSURANCES AFFIDAVIT ***

(NOTE: FAILURE TO COMPLETE AND SUBMIT THIS AFFIDAVIT WITH THE LETTER OF INTEREST SUBMITTAL MAY BE CAUSE FOR REJECTION OF THE SUBMITTAL.)

The undersigned, fully cognizant of the Maricopa County MWBE Program requirements and of the goal established, hereby certifies that in the preparation of this Letter of Interest,

(the entity submitting the Letter of Interest)

(CHECK ONE)

_____ Will meet the established goal for participation by Minority Women-Owned Business Enterprises.

_____ Will provide the necessary documentation to the Department Procurement Officer to establish that a good faith effort was made, and submit such documentation with its Technical Proposal.

Name of Firm

Signature

Title

STATE OF ARIZONA)
) §
County of Maricopa)

Subscribed and sworn to me before this _____ day of _____ 200__

by _____
Notary Public

My Commission Expires _____

MARICOPA COUNTY
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

MWBE ACTUAL PARTICIPATION AFFIDAVIT*
(COMPLETED AFFIDAVIT MUST BE SUBMITTED WITHIN SEVEN (7) CALENDAR DAYS
FOLLOWING THE COMPLETION OF CONTRACT FEE NEGOTIATIONS)

Name of Prime Consultant

Contract Number _____
Contract MWBE Goal: _____ %

Contract Amount _____

Contact Person

The prime consultant must specify the MWBE participation on this affidavit, or be able to provide documentation of their good faith efforts. If the proposal participation is "None," this affidavit must be completed with "None" so stated therein.

Street No.

City State Zip

<u>Minority/Women Owned Firm</u>	<u>Principal</u>	<u>Address</u>	<u>Type of Work</u>	<u>Proposed Contract Amount and Percentage</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

TOTALS (Dollars/Percentage) _____

The undersigned has entered into a formal agreement with the MBE/WBE subconsultants/subcontractors/suppliers listed above in the execution of this contract with the Flood Control District of Maricopa County.

Signature

Title

Date

STATE OF ARIZONA)
)§
County of Maricopa)

Subscribed and sworn to before me this __ day of _____ by _____

Notary Public

My commission Expires: _____

MARICOPA COUNTY
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

MWBE PROPOSED PARTICIPATION AFFIDAVIT*

(NOTE: FAILURE TO COMPLETE AND SUBMIT THE AFFIDAVIT WITH THE TECHNICAL PROPOSAL
SUBMITTAL MAY BE CAUSE FOR REJECTION OF THE TECHNICAL PROPOSAL)

Name of Prime Consultant

Contract Number
Contract MWBE Goal: _____ %

Contact Person

The prime consultant must specify the MWBE participation on this
affidavit, or be able to provide documentation of their good faith efforts.

Street No.

City State Zip

<u>Minority/Women Owned Firm</u>	<u>Principal</u>	<u>Address</u>	<u>Type of Work</u>	<u>Proposed Contract Percentage</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

TOTALS (Dollars/Percentage) _____

The undersigned has entered into a formal agreement with the MWBE subconsultants/subcontractors /suppliers listed above, in the execution of this contract with Maricopa County.

Signature

Title

Date

STATE OF ARIZONA)
)§
County of Maricopa)

Subscribed and sworn to before me this __ day of _____ by _____
Notary Public

My commission Expires: _____

**CERTIFICATE OF GOOD FAITH EFFORT
FOR CONSULTANT CONTRACTS**

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

The intent of this certification is to document the good faith efforts implemented by the Consultant in soliciting and using MWBE firms to meet the established MWBE goals for the Maricopa County (County) contracts. This certificate will assist the County in determining whether the Consultant has implemented "good faith" efforts in accordance with the **Maricopa County Minority and Women-Owned Business Enterprise Program**. The burden of proof rests with the Consultant.

(NOTE: Prior to completing this certificate it is important that the consultant review the "good faith" effort requirements in the Maricopa County Minority and Women-Owned Business Enterprise Program.

Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>

Failure to implement "good faith" efforts to the satisfaction of the (enter department) Article 5 Procurement Officer may result in rejection of the proposal.)

I, _____, do hereby acknowledge that I am the _____ of _____ who has been identified as the consultant for the Maricopa County Contract (insert contract number and contract title here).

Provide a brief summary of why the established MWBE goal of (Insert goal here) percent ((Insert goal here) %) for this project cannot be met. (Attach additional sheets if necessary.)

I hereby certify that I have made comprehensive "good faith" efforts to solicit and use the City of Phoenix and Maricopa County certified firms to meet the established MWBE goal of this project as demonstrated by my responses to the following questions.

A. IDENTIFYING SUBCONSULTANT WORK ITEMS

Consultants are encouraged to select portions of work to be subcontracted in a manner that will increase the likelihood of meeting the established MWBE goal for the contract. In selecting work to be performed, Consultants will consider, where appropriate, breaking down the project into economically feasible units to facilitate MWBE participation. Consultants are reminded that the **City of Phoenix and Maricopa County** Certification listing is the only authorized source from which to select MWBEs for project participation. **This listing may be accessed from the Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>**

Which portions of the proposal, in terms of the nature of the work, were selected to be subcontracted? If none, please explain in detail. (Attach additional sheets if necessary.)

B. NOTIFYING MWBE FIRMS OF CONTRACTING OPPORTUNITIES

1. Solicitations by mail/fax must be made to all MWBE firms identified on the MWBE Certification Listing that perform the type of work that is proposed for subcontracting. Following this initial solicitation, at least one follow-up telephone call to each MWBE firm who has not responded to the mailing must be made.
2. In the spaces provided below, indicate which firms received written notification of work items to be subcontracted. In the appropriate space, also indicate which firms received subsequent telephone solicitations. Please attach additional sheets so that all firms contacted are listed. (Attach photocopies of all written solicitations to MWBE firms to this documentation of good faith efforts.)

MWBE Firm	Telephone No.	Date of Contact	Person Contacted
-----------	---------------	-----------------	------------------

3. Were the services of the **Parity Partners**, identified in the Parity Partner Coordination List, used to assist the Consultant in the recruitment of MWBEs or to assist in solving other MWBE problems?
(Attach additional sheets if necessary.)

YES _____ **NO** _____

Contact was made by:

Telephone _____ Written correspondence _____

Date contacted _____ Staff person contacted _____

C. PROVIDING MWBEs WITH ASSISTANCE

1. Explain any efforts taken to provide MWBEs with information regarding project plans, specifications, and requirements of the project.

2. Describe any efforts initiated to provide special assistance to MWBE firms interested in participating in this project.

3. Describe any efforts undertaken to assist interested MWBE firms in obtaining bonding, lines of credit, or insurance required by the County for this project.

4. Was solicitation for MWBEs advertised in local papers, ethnic periodicals, or trade journals? If YES, please list the name of the periodical, the dates advertised and provide a copy of the advertisement.

D. SOLICITING QUOTES FROM MWBE FIRMS

Consultants must solicit quotes in good faith with interested MWBE firms. Quotes and bids from interested MWBEs must not be rejected without sound justification based upon a thorough investigation of the capabilities of the MWBE firms.

Indicate in the space provided below which MWBE firms submitted quotes. Also provide a brief explanation of why any of these MWBE quotes were rejected. If price was a determining factor, provide documentation showing the non-minority quotes. Please attach additional sheets if necessary.

Name of MWBE Firm	Explanation for rejecting quote

State of Arizona)
)§
County of Maricopa)

Signed this _____ day of _____, 200__.

Signature

Title

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 200__.

Notary Public

My Commission Expires:_____

**CERTIFICATE OF NON-ATTAINMENT OF MWBE GOAL
FOR CONSULTANT CONTRACT**

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

The intent of this certification is to document the efforts taken by the Consultant to solicit and use MWBE firms to meet the established MWBE goal for Maricopa County (County) contracts. This certificate will assist the County in determining whether the Consultant has implemented "good faith" efforts in accordance with the **Maricopa County Minority and Women-Owned Business Enterprise Program**. The burden of proof rests with the Consultant.

(NOTE: Prior to completing this certificate it is important that the consultant review the "good faith" effort requirements in the Maricopa County Minority and Women-Owned Business Enterprise Program.

Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>

I, _____, do hereby acknowledge
that I am the _____ of _____
_____ who is the Consultant on Maricopa County Contract _____,
_____.

Provide a brief summary of why the established MWBE goal for this project was not met. (Attach additional sheets if necessary.)

I hereby certify that I have made comprehensive "good faith" efforts to solicit and use the City of Phoenix and Maricopa County certified firms to meet the established MWBE goal of this project as demonstrated by my responses to the following questions.

A. IDENTIFYING SUBCONSULTANT WORK ITEMS

Consultants are encouraged to select portions of work to be subcontracted in a manner, which will increase the likelihood of meeting the established MWBE goal for the project. In selecting work to be performed, Consultants will consider, where appropriate, breaking down the project into economically feasible units to facilitate MWBE participation. Consultants are reminded that the **City of Phoenix and Maricopa County** Certification listing is the only authorized source from which to select MWBEs for project participation. **This listing may be accessed from the Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>**

1. Which portions of the contract were selected to be subcontracted? What was the proposed fee for these services?

2. With which MWBE firms did you subcontract? Where did the differences between the proposed participation and the actual participation occur and what was the basis/cause of the difference?

3. Was the (department) Procurement Officer contacted when it became apparent that the MWBE goal was in jeopardy of not being attained?
(Attach additional sheets if necessary.)

YES _____ **NO** _____

Contact was made by:

Telephone _____ Written correspondence _____

Date contacted _____ Staff person contacted _____

B. PROVIDING IMPROVED POTENTIAL FOR MWBE PARTICIPATION

1. Explain any efforts that were taken to provide MWBEs with information regarding project plans, specifications, and scopes of work and requirements of the project in order to increase potential participation.

2. Describe any efforts initiated to provide special assistance to MWBE firms interested in participating in this project.

C. SOLICITING QUOTES FROM MWBE FIRMS

Consultants must solicit quotes in good faith with interested MWBE firms. Quotes and proposals from interested MWBEs must not be rejected without sound justification based upon a thorough investigation of the capabilities of the MWBE firms.

Indicate in the space provided below which MWBE firms submitted quotes. Also provide a brief explanation of why any of these MWBE quotes were rejected. If price was a determining factor, provide documentation showing the non-minority quotes. Please attach additional sheets if necessary.

Name of MWBE Firm	Explanation for rejecting quote

State of Arizona)
)§
County of Maricopa)

Signed this _____ day of _____, 200__.

Signature

Title

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 200__.

Notary Public

My Commission Expires:_____

**CERTIFICATE OF GOOD FAITH EFFORT
FOR CONTRACTOR**

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

The intent of this certification is to document the good faith efforts implemented by the Contractor in soliciting and using MWBE firms to meet the established MWBE goals for Maricopa County (County) contracts. This certificate will assist the County in determining whether the Contractor has implemented "good faith" efforts in accordance with the **Maricopa County Minority and Women-Owned Business Enterprise Program**. The burden of proof rests with the Contractor.

(Note: Prior to filling out this certificate it is important that you review the "good faith" efforts requirements in the Maricopa County Minority and Women-Owned Small Business Enterprise Program.

Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>

Failure to implement "good faith" efforts to the satisfaction of the Maricopa County Minority and Women-Owned Business Enterprise Program may result in rejection of bid or proposal.)

I, _____, do hereby acknowledge that I am the _____ of _____ who has been identified as the apparent low bidder or second low bidder on Maricopa County Contract (insert contract number and contract title here).

Provide a brief summary of why the established MWBE goal of (Insert goal here) percent ((Insert goal here) %) for this project has not been met. (Attach additional sheets if necessary.)

I hereby certify that I have made comprehensive "good faith" efforts to solicit and use the City of Phoenix and Maricopa County certified firms to meet the established MWBE goal of this project as demonstrated by my responses to the following questions.

A. IDENTIFYING SUBCONTRACTOR WORK ITEMS

Contractors are encouraged to select portions of work to be subcontracted in a manner, which will increase the likelihood of meeting the established MWBE goal for the contract. In selecting work to be performed, Contractors will consider, where appropriate, breaking down the project into economically feasible units to facilitate MWBE participation. Contractors are reminded that only the **City of Phoenix and Maricopa County** Certification listing is the only authorized source from which to select MWBEs for project participation. **This listing may be accessed from the Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>**

Which portions of the contract bid, in terms of the nature of the work were selected to be subcontracted? If none, please explain in detail. (Attach additional sheets if necessary.)

B. NOTIFYING MWBE FIRMS OF CONTRACTING OPPORTUNITIES

1. Solicitations by mail/fax must be made to all MWBE firms identified on the Certification Listing that perform the type of work that is proposed for subcontracting. Following this initial solicitation, at least one follow-up telephone call to each MWBE firm who has not responded to the mailing must be made.
2. In the spaces provided below, indicate which firms received written notification of work items to be subcontracted. In the appropriate space, also indicate which firms received subsequent telephone solicitations. Please attach additional sheets so that all firms contacted are listed. (Attach photocopies of all written solicitations to MWBE firms to this documentation of good faith efforts.)

MWBE Firm	Telephone No.	Date of Contact	Person Contacted
-----------	---------------	-----------------	------------------

3. Were the services of the **Parity Partners**, identified in the Parity Partner Coordination List, used to assist the Contractor in the recruitment of MWBEs or to assist in solving other MWBE problems?
(Attach additional sheets if necessary.)

YES _____ NO _____

Contact was made by:

Telephone _____ Written correspondence _____

Date contacted _____ Staff person contacted _____

C. PROVIDING MWBEs WITH ASSISTANCE

1. Explain any efforts taken to provide MWBEs with information regarding project plans, specifications, and requirements of the project.

2. Describe any efforts initiated to provide special assistance to MWBE firms interested in participating in this project.

3. Describe any efforts undertaken to assist interested MWBE firms in obtaining bonding, lines of credit, or insurance required by the County for this project.

4. Was solicitation for MWBEs advertised in local papers, ethnic periodicals, or trade journals? If YES, please list the name of the periodical, the dates advertised and provide a copy of the advertisement.

D. SOLICITING QUOTES FROM MWBE FIRMS

Contractors must solicit quotes in good faith with interested MWBE firms. Quotes and bids from interested MWBEs must not be rejected without sound justification based upon a thorough investigation of the capabilities of the MWBE firms.

Indicate in the space provided below which MWBE firms submitted quotes. Also provide a brief explanation of why any of these MWBE quotes were rejected. If price was a determining factor, provide documentation showing the non-minority quotes. Please attach additional sheets if necessary.

Name of MWBE Firm	Explanation for rejecting quote

State of Arizona)
)§
County of Maricopa)

Signed this _____ day of _____, 200__.

Signature

Title

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 200__.

Notary Public

My Commission Expires:_____

**CERTIFICATE OF NON-ATTAINMENT OF MWBE GOAL
FOR CONTRACTOR**

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

The intent of this certification is to document the efforts taken by the Contractor to solicit and use MWBE firms to meet the established MWBE goal for Maricopa County (County) contracts. This certificate will assist the County in determining whether the Contractor has implemented "good faith" efforts in accordance with the **Maricopa County Minority and Women-Owned Business Enterprise Program**. The burden of proof rests with the Contractor.

(NOTE: Prior to completing this certificate it is important that the consultant review the "good faith" effort requirements in the Maricopa County Minority and Women-Owned Business Enterprise Program.

Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>

I, _____, do hereby acknowledge that I
am the _____ of _____
_____ who has been identified as the Contractor on Maricopa County Contract (insert
contract number and contract title here).

Provide a brief summary of why the established MWBE goal for this project was not met. (Attach additional sheets if necessary.)

I hereby certify that I have made comprehensive "good faith" efforts to solicit and use the City of Phoenix and Maricopa County certified firms to meet the established MWBE goal of this project as demonstrated by my responses to the following questions.

A. IDENTIFYING SUBCONTRACTOR WORK ITEMS

Contractors are encouraged to select portions of work to be subcontracted in a manner, which will increase the likelihood of meeting the established MWBE goal for the project. In selecting work to be performed, Contractors will consider, where appropriate, breaking down project into economically feasible units to facilitate MWBE participation. Contractors are reminded that the **City of Phoenix and Maricopa County** Certification listing is the only authorized source from which to select MWBEs for project participation. **This listing may be accessed from the Internet Site: <http://www.mcdot.maricopa.gov/procurement/mwbe/home.htm>**

1. Which portions of the contract were selected to be subcontracted? What was the proposed fee for these services?

2. With which MWBE firms did you subcontract? Where did the differences between the proposed participation and the actual participation occur and what was the basis/cause of the difference?

3. Was the (department) Procurement Officer contacted when it became apparent that the MWBE goal was in jeopardy of not being attained?
(Attach additional sheets if necessary)

YES _____ **NO** _____

Contact was made by:

Telephone _____ Written correspondence _____

Date contacted _____ Staff person contacted _____

B. PROVIDING IMPROVED POTENTIAL FOR MWBE PARTICIPATION

1. Explain any efforts that were taken to provide MWBEs with information regarding project plans, specifications, and scopes of work and requirements of the project in order to increase potential participation.

2. Describe any efforts initiated to provide special assistance to MWBE firms interested in participating in this project.

C. SOLICITING QUOTES FROM MWBE FIRMS

Contractors must solicit quotes in good faith with interested MWBE firms. Quotes and proposals from interested MWBEs must not be rejected without sound justification based upon a thorough investigation of the capabilities of the MWBE firms.

Indicate in the space provided below which MWBE firms submitted quotes. Also provide a brief explanation of why any of these MWBE quotes were rejected. If price was a determining factor, provide documentation showing the non-minority quotes. Please attach additional sheets if necessary.

Name of MWBE Firm	Explanation for rejecting quote

State of Arizona)
)§
County of Maricopa)

Signed this _____ day of _____, 200__.

Signature

Title

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 200__.

Notary Public

My Commission Expires:_____

CHAPTER X

CONSULTANT AND PROJECT MANAGER PROCESS IMPROVEMENT

GENERAL

The following documents contain a set of evaluation forms to be completed by the consultant and by the County's Project Manager. The forms are not intended to be used to point fingers or to make excuses for things that went awry. The forms are a process improvement tool to aid us in identifying and disseminating new and useful ideas. At the same time these forms can document things that have gone wrong so that we do not make the same mistake a second time. The information in these forms has the potential to improve the efficiency and effectiveness of operations for both the consultant and the County. In addition, once the ideas are implemented, they have the potential of providing cost savings to the public we serve.

PROCEDURES

Both the consultant and the County forms will be completed at least once at the end of the contract. At the option of the consultant and/or the County Project Manager, the forms may be used at an intermediate point to formalize the contract's status at a particular point in time. These forms will not be used in the consultant selection process. The department's Procurement Officer will review the completed forms to determine if there is an opportunity for process improvement. If such potential exists, the Procurement Officer will bring the opportunity to the attention of the department's management staff and the County's Article 5 office if appropriate. Completed forms will be filed together in a separate process improvement file in the department's procurement office and will not be available for general public review. Retention of the forms will be in accordance with the standards used for the consultant contract.

**MARICOPA COUNTY
CONSULTANT EVALUATION FORM**

To be filled out by Department

Date_____	
Consultant Name_____	Project Name_____
Project Description_____	
Project Manager_____	Contract Number_____
Type of Review <input type="checkbox"/> Intermediate <input type="checkbox"/> Final	

This form is to be used for design and study contracts.

Rate each of the following using a scale 1 through 5. Mark categories that do not apply N/A (Not Applicable). Use this form at both intermediate and final reviews. Write comments, if any, in the space provided.

1	2	3	4	5
Needs Improvement		Satisfactory		Superior

TIMELINESS

RATING
1 2 3 4 5

1. Timeliness of scoping and negotiations leading to timely signing of a contract_____

☐☐☐☐☐

2. Work accomplished in accordance with the approved/updated schedule_____

☐☐☐☐☐

3. Timely response to Department comments_____

☐☐☐☐☐

4. Timely billings, billing questions resolved_____

☐☐☐☐☐

KNOWLEDGE

1 2 3 4 5

5. Understanding of project objectives/scope of work by project manager/reviewer_____

☐☐☐☐☐

6. Decision making/guidance by project manager_____

☐☐☐☐☐

7. Awareness and resolution of criteria or policy changes affecting project outcome_____

☐☐☐☐☐

8. Adequate coordination to resolve issues beyond the scope of work_____

☐☐☐☐☐**COOPERATION/COMMUNICATIONS**

9. Working relationship between Department staff and consultant_____

☐☐☐☐☐

10. Communications during this project_____

☐☐☐☐☐

11. Clarity of decisions or instructions from Department_____

☐☐☐☐☐

12. Recognition and resolution of unusual or critical problems_____

☐☐☐☐☐**QUALITY**

13. Clarity of contract scope of work_____

☐☐☐☐☐

14. Clarity of Department standards/expectations for drawings_____

☐☐☐☐☐

	1	2	3	4	5
15. Clarity of Department standards/expectations for specifications _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Clarity of review comments _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Completeness of review comments _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Appropriateness or relevancy of review comments for level of submittal _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Maintained adequate and qualified management and review personnel throughout the project _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	1	2	3	4	5
TOTALS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How well are we doing? How can we improve?

COMMENTS:

**MARICOPA COUNTY
DEPARTMENT EVALUATION FORM**

To be filled out by Consultant

Date_____

Consultant Name_____Project Name_____

Project Description_____

Project Manager_____Contract Number_____

Type of Review ☐ Intermediate ☐ Final

This form is to be used for design and study contracts.

Rate each of the following using a scale 1 through 5. Mark categories that do not apply N/A (Not Applicable). Use this form at both intermediate and final reviews. Write comments, if any, in the space provided.

1	2	3	4	5
Needs Improvement		Satisfactory		Superior

The consultant may optionally elect to answer all of the categories that apply with comments and not fill out the number rating.

TIMELINESS

RATING

1 2 3 4 5

20. Timeliness of scoping and negotiations leading to timely signing of a contract_____

☐☐☐☐☐

21. Materials furnished to consultant in a timely fashion_____

☐☐☐☐☐

22. Timely response to consultant questions_____

☐☐☐☐☐

23. Timely reviews (meets schedule)_____

☐☐☐☐☐

24. Timely payment of billings, billing questions resolved_____

☐☐☐☐☐

KNOWLEDGE/INNOVATION

1 2 3 4 5

25. Organization of work _____ ☐☐☐☐☐

26. Value Engineering (i.e. savings in cost, design, maintenance) ☐☐☐☐☐

27. Good understanding of project/scope of work _____ ☐☐☐☐☐

28. Recognition and resolution of unusual or critical problems _____ ☐☐☐☐☐

COOPERATION/COMMUNICATIONS29. Consultant working relationship/communication with Department ☐☐☐☐☐

30. Consultant working relationship with outside Departments _____ ☐☐☐☐☐

31. Compliance with contractual obligations _____ ☐☐☐☐☐

QUALITY32. Deliverables/submittals complete in accordance with the scope ☐☐☐☐☐

33. Produced clear, complete and accurate drawings per
Department's standards _____ ☐☐☐☐☐

34. Produced clear, complete and accurate specifications per
Department's standards _____ ☐☐☐☐☐

	1	2	3	4	5
35. Produced clear, complete and accurate design calculations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36. Produced clear, complete and accurate quantity calculations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37. Produced clear, complete and accurate reports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38. Maintained adequate and qualified personnel throughout the project	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39. Performed quality control on items prior to submittal for review	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40. Complete documentation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How well are we doing? How can we improve?

COMMENTS:

<hr/> <hr/> <hr/> <hr/>

CHAPTER XI

TYPICAL FILE FOLDER PLANS

TYPICAL FILE FOLDER PLAN FOR CONSTRUCTION CONTRACTS

A copy of the approved agenda item authorizing the call for bids, award of contract and related financial information.

An original copy of the newspaper publisher's affidavit with a copy of the advertisement.

An original copy of the engineer's construction estimate.

A copy of the specifications booklet.

A summary of all bids submitted, including the names and addresses of all bidders.

An original signed copy of the contract document.

A copy of the Notice to Proceed.

A copy of signed pay requests or the specific file location of the pay requests.

An original signed copy of change orders or the original copy of the agenda item authorizing the changes, if any.

A signed certificate of performance document.

An original copy of all incoming correspondence pertaining to the contract and a coordinated copy of all outgoing correspondence.

Lien release waiver file.

TYPICAL FILE FOLDER PLAN FOR ENGINEERING SERVICES CONTRACTS

A copy of the scope of work.

An original copy of the newspaper publisher's affidavit with a copy of the advertisement, if applicable.

A copy of the fee calculation and estimate.

A memo to file indicating the composition of the selection committee, and a summary of the selection process.

A signed copy of the contract documents and related agenda item.

A copy of signed pay requests or the specific file location or the pay requests.

An original signed copy of change orders, or the original copy of the agenda item authorizing the changes, if any.

A signed certificate of performance document.

An original copy of all incoming correspondence pertaining to the contract and a coordinated copy of all outgoing correspondence.

A copy of the product, a reference to the construction contract, or the location of the product.

TYPICAL FILE FOLDER PLAN FOR LEGAL SERVICES CONTRACTS

A copy of the scope of work

An original copy of the newspaper publisher's affidavit with a copy of the advertisement, if applicable.

A copy of the fee determination and estimate.

A memo to file indicating the composition of the selection committee, and a summary of the selection process.

An original signed copy of the contract documents and related agenda item.

An original signed copy of change orders and the original agenda item authorizing the changes, if any.

A copy of all pay requests or the specific file location of the pay requests.

An original copy of all incoming correspondence pertaining to the contract and a coordinated copy of all outgoing correspondence.

TYPICAL FILE FOLDER PLAN FOR APPRAISAL SERVICES CONTRACTS

A description of the work.

An original copy of the newspaper publishers affidavit with a copy of the advertisement.

A copy of the fee calculation and estimate.

A memo to file indicating the composition of the selection committee, and a summary of the selection process.

A signed copy of the contract documents and related agenda item.

A copy of each work assignment issued under the contract and made against the work assignment.

A copy of the appraisal or work required by the work assignment.

An original signed copy of change orders and the original agenda item authorizing the changes, if any.

A signed certificate of performance (COP) document for each completed assignment and a notarized document for the final contract COP.

An original copy of all incoming correspondence pertaining to the contract and a coordinated copy of all outgoing correspondence.

CHAPTER XII

DEPARTMENT SELF INSPECTION CHECKLIST

INTRODUCTION

The Maricopa County Procurement Code, adopted by the Maricopa County Board of Supervisors authorizes the County Engineer to adopt policies and implement an Article 5 Procedures Manual consistent with the Procurement Code in order to provide amplifying or clarifying information. The Article 5 Procedures Manual was issued as a result of that authority. Chapter 1 of the Procedures Manual provides for the County Engineer to direct a review and/or audit of procurement records to ensure that departments are meeting the requirements of the Procurement Code and the Procedures Manual.

To work toward the goal of having procurement programs fully comply with State Statutes, the Maricopa County Procurement Code and the Article 5 Procedures Manual, this self-inspection checklist, which basically outlines the compliance evaluation, has been included in this document.

CHECKLIST

1. PUBLICATIONS

- Currency of the Procurement Code
- Currency of the Article 5 Procedures Manual
- Proper posting of changes

2. PROCUREMENT OFFICER

- Does the department currently have an Article 5 Procurement Officer
- Is the Procurement Officer certified

3. CONTRACT BOILERPLATES

- Does the department have department adapted contract boilerplates
- Does the department use the standardized boilerplates
- If the department makes exceptions to the standardized boilerplates are the exceptions noted and justified

4. CONSULTANT SELECTION

- Is the Article 5 Procurement Officer involved in or does the Article 5 Procurement Officer oversee the selection
- Is the selection made in accordance with the selection criteria
- Is the mandatory/approved selection criteria used

5. CHANGE ORDERS

- Are the appropriate staff as noted in the Article 5 Procedures Manual reviewing and approving changes orders

- Are the change orders that have been issued within statutory and/or Code guidance
- Is the change order data being reported to the County Engineer as required

6. CONTRACT FILES

- Is there a contract file in the designated File Plan location for every contract
- Does the file contain:
 - A Certification of Advertising if the publication was formally advertised
 - A Short List memo submitted by the selection committee chair and approved and signed by the department director
 - A Selection memo submitted by the selection committee chair that rank ordered the Short List and was approved and signed by the department director
- Was the contract signed and approved at the proper level
- Does the contract file comply with the approved File Retention and Destruction Plan

7. AMPLIFYING PROCEDURES

- Does the department have specific instructions that amplify the Article 5 Procedures Manual
- Are the procedures in compliance with State Statutes, the Procurement Code and the Article 5 Procedures Manual
- Does the department follow the procedures

8. CONTRACT PAYMENTS

- Are payments made in accordance with the contract
- Does the contract remain within the contract ceiling
- Are payments made within the proper time constraints
- Was final payment made in accordance with the contract and contract law

9. ON-CALL CONTRACTS

- Are contract amounts within the authorized ceiling
- Are specific assignments issued
- Do they contain specific tasking
- Do they specify specific compensation
- Do they specify specific performance standards
- Are assignments monitored for assignments compliance
- Are assignments formally closed out upon completion
- Are contracts terminated when either the time and/or fiscal authority expires

10. MWBE PROGRAM

- Does the department establish realistic goals for contracts
- Are the scope/bid items broken up in a manner that facilitates MWBE participation
- Are the consultants and/or contractors required to report MWBE participation
- Is MWBE participation reported to the County Engineer as required

11. FORCE ACCOUNT WORK

- Is force account work within statutory limits

APPENDIX A

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM 2000 revision to January 1, 1992 program

I. INTRODUCTION

A. PURPOSE

The purpose of the Minority and Women-Small Business Enterprise (MWBE) Program is to effectively communicate procurement and contracting opportunities through enhanced business relationships to end disparity and to increase the opportunities for minority and women-owned business enterprise participation in a competitive environment.

B. POLICY

Maricopa County will endeavor to ensure that minority and women-owned business enterprises have the opportunity to provide professional services, purchased goods, and contractual services to the County in a nondiscriminatory manner.

C. PROGRAM OBJECTIVES

1. To increase the opportunities for minority and women-owned business enterprise participation in procurement activities with Maricopa County.
2. To promote private sector utilization opportunities for minority and women-owned business enterprises to fulfill expected goals stated in County solicitations.
3. To assist in the development of entrepreneurial capabilities and skills of minority and women-owned business enterprises through educational programs.
4. To improve Maricopa County community awareness of the MWBE Program.

II. PROGRAM ADMINISTRATION

A. SCOPE

The Maricopa County MWBE Program will include, but is not limited to, all purchasing and contracting activities in the areas of architecture and engineering, construction, professional services, concessions, goods and equipment, and services conducted by all Maricopa County departments.

B. RESPONSIBILITY AND AUTHORITY

1. The Maricopa County Board of Supervisors (Board) is responsible for the development and the implementation of the MWBE Program. The Board ensures that the opportunity for MWBE participation is available in all Maricopa County contracting and procurement activities regardless of funding source or type of work.

These activities are ensured through:

- a. Adopting a policy statement in support of the Maricopa County MWBE Program.
 - b. Designating the Materials Management Department Director and the County Engineer the responsibility and authority to carry out the Board's policy statement.
2. The Materials Management Department Director is responsible for the achievement of the MWBE Program expected goals within Article 3 of the Procurement Code with the following exceptions: Departments operating under the Judicial Procurement Code - Presiding Judge; Maricopa Integrated Health Services - Chief Executive Officer of MIHS; Housing Department - Housing Department Director. Article 3 Procurement Code goals include, but are not limited to:
 - a. To the maximum extent feasible and consistent with the State of Arizona laws and the Maricopa County Procurement Code, procure materials, supplies, equipment, and Article 3 contractual services in a manner that will enhance opportunities for MWBE participation.
 - b. Ensure procurement officers analyze individual projects and procurements for potential MWBE participation and for the assignment of MWBE expected goals.

- c. Collect MWBE contract and procurement information and provide regular reports to the MWBE Team.
 - d. Participate in workshops, seminars, and trade fairs with the MWBE Team.
 - e. Report progress of the program to the Board.
3. The County Engineer is responsible for the application of the requirements throughout the development and administration of Article 5 contract activities. Article 5 Procurement Code goals include, but are not limited to:
- a. To the maximum extent feasible and consistent with the State of Arizona laws and the Maricopa County Procurement Code, procure professional and Article 5 contractual services in a manner and that will enhance opportunities for MWBE participation.
 - b. Ensure Article 5 procurement officers analyze individual projects and procurements for potential MWBE participation and assignment of MWBE expected goals.
 - c. Collect MWBE contract and procurement information and provide regular reports to the MWBE Team.
 - d. Participate in workshops, seminars, and trade fairs with the MWBE Team.
 - e. Report progress of the MWBE Program to the Board.
4. The MWBE Team, jointly appointed by the Director of Materials Management and the County Engineer, has the overall responsibility for implementing Maricopa County's MWBE Program. This team:
- a. Approves the procedures and activities to implement the MWBE Program.
 - b. Recommends annual contract category MWBE expected goals to the procurement officers.
 - c. Disseminates information to departments about establishing individual project expected goals for MWBEs.
 - d. Coordinates the MWBE Program with departments and provides in-house orientation and direction.
 - e. Coordinates the outsourcing of the certification of firms for eligibility requirements necessary to participate as MWBEs.
 - f. Monitors the MWBE Program for achievement of expected goals and contract compliance.
 - g. Investigates MWBE Program challenges and complaints.

- h. Conducts and/or coordinates outreach and promotes the MWBE Program to the Maricopa County community.
- 5. The Maricopa County Parity Partners advise the MWBE Team. They will:
 - a. Assist the Team in developing and monitoring challenging, yet attainable, expected MWBE Program goals.
 - b. Advise the Team on how best to meet expected MWBE Program goals.
 - c. Develop and implement an educational program to assist MWBEs to participate in Maricopa County procurements and contracts.
 - d. Develop and implement an outreach program to inform MWBEs about opportunities for participation in the Maricopa County MWBE Program.
- 6. Procurement officers and project managers are responsible for implementing the MWBE Program at the working level and in accordance with procedures provided by the Materials Management Department Director and the County Engineer, respectively. A procurement officer and/or project manager shall evaluate each contract and/or purchase for potential MWBE participation. Based upon that evaluation, a MWBE goal shall be established, where justified, for each contract by the procurement officer. The procurement officers will forward quarterly participation reports to the MWBE Team.

C. REFERENCES

- 1. Maricopa County Procurement Code
- 2. Minority and Women-Owned Business Enterprise Program Procedures
- 3. Small Business Act, Sections 3 & 5 (Public Law 85-536 as amended)
- 4. Small Business Size Regulations, 13 CFR 121
- 5. City of Phoenix EOD, DBE Policy Plan
- 6. City of Phoenix Second Generation Disparity Study, April 1999
- 7. Maricopa County Minority and Women-Owned Business Enterprise Program Study, 1991

D. PUBLIC DISCLOSURE

Public disclosure of files and records maintained by MWBE Team shall be handled pursuant to the Maricopa County Procurement Code, Article 1, and Arizona Revised Statutes.

E. SEVERABILITY

The provisions of the MWBE Program shall be effective in all cases unless otherwise provided for by County, State or Federal Law. The provisions of this program are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this program or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this program or the validity of their application to other persons or circumstances.

F. COORDINATION WITH OTHER LAWS OR REGULATIONS

On all contracts in which other governmental agency funding is used, the requirements of the Maricopa County Procurement Code and the MWBE Program shall apply in addition to those requirements imposed by other governmental agencies unless otherwise provided for by State or Federal law.

G. DEFINITIONS

Definitions of terms used in the description and achievement of the objectives of the Maricopa County MWBE Program are submitted in Appendix 1. All words shall have their ordinary and usual meanings except those defined in Appendix 1, which shall have, in addition, the meaning set forth. In the event of conflict, the specific definition spelled out in Appendix 1 and any additional expansion of the definition contained elsewhere in this policy shall prevail.

H. SUNSET CLAUSE

The use of expected utilization goals would terminate at the end of Fiscal Year 2002, June 30, unless extended for additional years by the Board. The Board may terminate the use of expected utilization goals at such time when utilization equals availability. At least 45

days prior to sunset, termination, or extension of expected goals, Maricopa County will hold public hearings to gather input from the community.

In addition, statistical data demonstrating a disparity between utilization and availability of minority and women-owned business enterprises must be periodically updated and reviewed to support the need for expected utilization goals.

III. GOALS

The MWBE Program is designed to increase the opportunities for involvement of these groups in contracting and procurement activities with Maricopa County. The result of such a program will be the ultimate attainment and sustaining of a fair share of available contracting opportunities for MWBEs.

To ensure this attainment, the Board shall approve the use of contract category MWBE expected utilization goals. The MWBE Team will establish these expected goals and will annually review and revise such expected goals, if necessary. Procurement officers will establish expected goals on individual projects for all procurement and contracts where feasible.

A. ANNUAL UTILIZATION GOALS

The MWBE Team shall propose expected goals for each of the following contract categories: (1) architectural and engineering; (2) construction; (3) health and (4) purchasing and service (professional and general). These expected goals will be reviewed annually and revised, if necessary. To the extent that relevant information is available, the factors used in establishing or revising proposed expected utilization goals might include the following:

1. Total dollar amount of all contracts awarded during the past fiscal year. (Only contracts awarded to for-profit businesses will be counted.)
2. Total dollar amount of contracts or subcontracts awarded to MWBEs during the past fiscal year. (Only contract dollars awarded to for-profit businesses will be counted.)
3. Percentage of MWBE participation.

4. Dollar amount of anticipated procurements and contracts to be awarded for the next fiscal year.
5. Projection of the number and types of MWBEs available during the next fiscal year.
6. Statistical indicators, if any, showing the denial of equitable competitive opportunities to minority and women businesses.
7. The level of participation of minority and women-owned firms in past contracts awarded by the County.
8. Other information received from departments as required by this program, specifically to include the annual report, contract forecasts, and implementation plans.
9. The level of participation of minority and women-owned firm contracts awarded in the Maricopa County geographical area, if available.
10. The level of participation recommended of minority and women-owned firms by other governmental agencies and by private agencies operating in Maricopa County, if available.
11. The number of minority and women-owned firms in Maricopa County, if available.
12. The number of minority and women-owned firms certified by Maricopa County and local governments, or other nationally recognized certification programs.
13. Any other factors deemed pertinent to the goal setting methodology by the MWBE Team in order to reasonably reflect the purpose of this program.

B. INDIVIDUAL CONTRACT EXPECTED GOALS

Individual contract and procurement expected goals would vary depending on the kind of work to be performed or purchases made and the known availability of certified MWBE firms in Maricopa County to provide such services.

C. TIMETABLES

MWBE annual expected goals will cover Maricopa County's fiscal year beginning July 1 and ending June 30.

D. MONITORING

The MWBE Team shall monitor the achievement of the overall annual and individual expected goals on a continuing basis. A review will be made on projected MWBE participation as compared to actual participation. Only those firms accepted by Maricopa County as certified minority or women-owned business enterprises shall be counted for the purpose of meeting expected goals.

E. GOOD FAITH EFFORTS

Bids or proposals that fail to meet MWBE minimum expected utilization goals might be considered non-responsive unless good faith efforts can be determined. A review process will be established to evaluate good faith efforts.

Reasonable "good faith" efforts expected could include, but are not limited to:

1. Written notification to MWBEs that participation in the contract is solicited.
2. Selection of portions of the proposed work that can be performed by MWBE firms with a provision providing that they are generally competitive.

The MWBE Team through this program will assist prime contractors/consultants in identifying possible qualified and interested MWBE subcontractors to meet designated MWBE expected goals. A MWBE directory will be made available, upon request, which contractors/ consultants may utilize in identifying MWBE firms. It will be the responsibility of the prime contractors/consultants to obtain the MWBE firms necessary to meet the MWBE expected goals.

Failure to contact the MWBE Team for assistance in complying with these expected goals may result in not having implemented "good faith" efforts. Contact may be in writing, by telephone, or in person. The name of the MWBE Team member spoken to should be obtained.

Failure to implement "good faith" efforts in accordance with MWBE Program to the satisfaction of Maricopa County may result in the rejection of the bid or proposal.

Appendix 1 Definitions

Cooperation The condition existing when a contractor has met and implemented the expectations of the Minority and Women-Owned Business Enterprise Program.

Minority Business Enterprise (MBE) means a business concern that is independently owned and controlled by one or more persons who are citizens or lawful permanent residents of the United States, and who are members of one of the following groups:

- a. Black American includes persons having origins in any of the Black racial groups of Africa.
- b. Hispanic American includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or any Spanish culture or origin, regardless of race.
- c. Native American includes a person who is American Indian.
- d. Asian-Pacific American includes a person whose origin is from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the Northern Marianas, or the U. S. Trust Territories of the Pacific.
- e. Asian-Indian American includes a person whose origin is from India, Pakistan or Bangladesh.
- f. Members of groups or other individuals found to be economically and socially disadvantaged under Section 8(a) of the Small Business Act as amended (15 USC 637[a]). The individual's social disadvantage must have negatively affected his or her entry into, and/or advancement in, the business world. Their ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same or similar line of business and competitive market area who are not socially disadvantaged. The closer the individual can link social disadvantage to impairment of business opportunities, the stronger the case.

For those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are part of the above-mentioned minority groups, a rebuttable presumption will be made that those

individuals are socially and economically disadvantaged. It may also be determined on a case-by-case basis, that individuals who are not a member of one of these groups are socially and economically disadvantaged.

Women-Owned Business Enterprise (WBE) means a business concern that is independently owned and controlled by one or more women.

Owned and controlled means a business

- a. Which is at least 51 percent owned and controlled by one or more minorities, women, or socially and economically disadvantaged individuals, in the case of a public-owned business, at least 51 percent of the stock of which is owned by one or more minorities, women, or socially and economically disadvantaged individuals, and
- b. Whose management and daily business operations are controlled by one or more such individuals who have the authority to legally obligate and represent the business.

Small Business Enterprise means a small business concern defined as \$250 thousand net worth of the owner.

Expected Goals will vary depending on the kind of work to be performed or purchases made and the known availability of certified MWBE firms in Maricopa County to provide such services.

Disadvantaged Business Enterprise (DBE) means a statutory program to recipients of USDOT financial assistance intended to provide contracting opportunities for small business concerns (51% owned and controlled) of presumed socially and economically disadvantaged individuals. The owner(s) has a personal net worth of less than \$750,000.